

Sussex County Council Public/Media Packet

**MEETING:
May 9, 2023**

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**Sussex County Council
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(302) 855-7743**

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
JOHN L. RIELEY, VICE PRESIDENT
CYNTHIA C. GREEN
DOUGLAS B. HUDSON
MARK G. SCHAEFFER



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7743

SUSSEX COUNTY COUNCIL

A G E N D A

MAY 9, 2023

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes – April 25 & May 2, 2023

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Recognition of the local Spelling Bee winners
2. Recognition of the SCEMS Team for the 2023 JEMS Games Gold Medal
3. Proclamation – Community Action Month
4. Presentation and Update from the Sussex County Land Trust
5. Administrator's Report

10:15 a.m. Public Hearing

1. Forest Landing Annexation of the Sussex County Unified Sanitary Sewer District (Ellendale Area)



Robbie Murray, Director of Emergency Services

1. **First Watch Addendum/Agreement**
2. **Healthcare Provider Agreement with Blood Bank of Delmarva**

John Ashman, Director of Utility Planning & Design Review

1. **Permission to Prepare and Post Notices for Warrington Farm Annexation into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)**

Old Business

Ordinance No. 22-07

“AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01” (properties located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

Conditional Use No. 2369 filed on behalf of Leeward Chase DE, LLC

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS” (properties are located on the south side of Lewes Georgetown Highway [Route 9], approximately 0.4-mile east of the intersection of Sand Hill Road [S.C.R. 319] and Lewes Georgetown Highway) (911 Address: 22242 Lewes Georgetown Highway, Georgetown) (Tax Parcels: 135-15.00-98.00 & 98.01)

Grant Requests

1. **Coastal Concerts, Inc. for their 2023-24 Season Scholarship**
2. **Friends of Prime Hook National Wildlife Refuge Inc. for their Friends of Prime Hook NWR Educational Programs**
3. **Town of Dagsboro for their Mark-a-Hydrant program**
4. **Milton Garden Club for a new irrigation system for the downtown gardens**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

Executive Session – Land Acquisition, Pending/Potential Litigation pursuant to 29 Del.C.§10004(b)

Possible action on Executive Session items

Recess

1:30 p.m. Public Hearings

Conditional Use No. 2420 filed on behalf of Vance Daniels

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL AND A C-1 GENERAL COMMERCIAL DISTRICT FOR AUTO-STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS” (property lying on the west side of Daniels Road [S.C.R. 215A], approximately 480 ft. south of Coastal Highway [Rt. 1]) (911 Address: 9242 Daniels Road, Lincoln) (Tax Map Parcel: 230-15.00-3.00)

Adjourn

-MEETING DETAILS-

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on May 2, 2023 at 4:15 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County provides a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.**

Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036
Conference Code: 570176

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 25, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 25, 2023, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 179 23
Approve
Agenda**

Mr. Lawson reported that Conditional Use No. 2350 filed on behalf of Beaver Dam Enterprises, LLC under Public Hearings can be removed from the Agenda. A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from April 18, 2023, were approved by consensus.

**Corre-
spondence**

Mr. Moore read correspondence received from the Delaware Manufactured Homeowners Association thanking Council for their support.

**Public
Comments**

There were no public comments.

**Tributes,
Resolutions
& Proclam-
ations
Discussion**

President Vincent stated that he brought it up to discuss Tributes, Resolutions & Proclamations in the past. He would like to have all five Council members present for the discussion; Mr. Schaeffer could not be present today so he would recommend deferring this discussion to be included on a future agenda.

M 180 23
Defer
Action/
Tributes,
Resolutions
& Proclam-
ations

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to defer action on a discussion related to Tributes, Resolutions & Proclamations.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Discussion
& Possible
Action/
Disposition
of County
Owned
property

Mr. Lawson presented the disposition of County owned property on what is known as the Jones Farm (rear parcel) on Conaway Road, west of Millsboro for Council's consideration.

In 2022, the County purchased three parcels from the Jones Heirs totaling 47 acres with the idea to subdivide the rear parcel off. Within this portfolio, one parcel equaled 1.5 acres and included an old farmhouse and surrounding agricultural buildings. In June 2022, the Council approved the disposition of the farmhouse and surrounding 1.5 acres and that property was sold to the highest bidder.

The remaining acreage consists of farmland and woods and is contiguous to land owned by the State of Delaware. The land also neighbors the Midlands Wildlife Area which is actively managed by the State Fish & Wildlife Division. It was always the County's intent to sell the property to the State once the farmhouse was sold and old agriculture structures were removed.

The State and the County have reached a tentative agreement to spend an even 50-50 amount for this transaction. The State Open Space Council recommended the purchase at its quarterly meeting held in December 2022. In this agreement, the State will purchase the property from the County and preserve the land in perpetuity.

The property appraised at a present fair market value of six hundred and five thousand (\$605,000) and each party will pay 50% of the sale price. Since the County was the original purchaser, the State will now pay the County three hundred and two thousand and five hundred dollars (\$302,500).

M 181 23
Approve
Disposition
of County
Owned
Property

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it moved the Sussex County Council approves the disposition of a certain piece of land with improvements located on Conaway Road, west of Millsboro as explained in today's presentation and as identified as Tax Parcels 133-15.00-6.00 and 133-18.00-19.00.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Adminis-
trator’s
Report**

Mr. Lawson read the following information in his Administrator’s Report:

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Milos Have – Phase 1A (Construction Record) and Catching Cove (FKA Lands of Robert M. & Debora A. Reed) received Substantial Completion April 17th and April 18th respectively.

2. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for March 2023 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 191 troopers assigned to Sussex County for the month of March.

3. Sussex County Council FY 2024 Budget Workshop

On Tuesday, May 2nd, the Sussex County Council will meet for its annual budget workshop. The Fiscal Year 2024 Budget Workshop will be held at 9:00 a.m. at the Sussex County Emergency Operations Center. The next regularly scheduled Council meeting will be held on Tuesday, May 9th, at 10:00 a.m.

[Attachments to the Administrator’s Report are not attached to the minutes.]

**Hazard
Mitigation
Plan**

Joe Thomas, Director of Emergency Operations presented a Resolution for the 2022 Sussex County Hazard Mitigation Plan for Council’s consideration. Mr. Thomas reported that he came before the Council on December 13, 2022 to approve and adopt the Sussex County Multi-Jurisdictional Hazard Mitigation Plan. He added that for the previously plan that have been completed, FEMA accepted the Council minutes as the adoption. This time, FEMA has requested that a Resolution be completed.

**M 182 23
Adopt
Resolution
No. R 011 23
/Hazard
Mitigation
Plan**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Resolution No. R 011 23 entitled “Sussex County, Delaware All-Hazards Mitigation Plan”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Stop-Loss

Karen Brewington, Director of Human Resources presented a

Insurance Coverage

recommendation for Stop-Loss insurance coverage for Council's consideration. Mrs. Brewington reported that stop-loss insurance also known as excess insurance provides protection for self-insured employers by serving as a reimbursement mechanism for catastrophic claims exceeding pre-determined levels.

Currently, the annual specific deductible is \$295,000. Insurance Buyers Council completed an RFQ which resulted in responses from seven carriers, one of those being the incumbent Vista Underwriting. Two of those quotes were competitive – Vista Underwriting and Highmark.

Vista is quoting a laser on their proposal for \$500,000. Lasering is a common stop loss practice in which an individual participant—based on prior claims experience or known conditions—is covered by the stop loss policy at a higher specific deductible than the rest of the group. The County is seeing a 36.21% increase compared to current costs.

Highmark's quote does not include lasers and is coming in at a 16.89% increase compared to our current costs. Highmark also has an administrative fee savings of \$26,500 when they are utilized as the stop loss carrier. Another positive attribute is they cover a very expensive cancer drug that has a YTD cost of \$88,000.

It is IBC's recommendation that the County does not renew with Vista Underwriting and accept Highmark's proposal as our stop loss insurance carrier.

**M 183 23
Approve
Stop-Loss
Insurance
Carrier**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved that the Sussex County Council terminate its contract with Vista Underwriting/Companion Life for stop loss coverage effective April 30, 2023, and enter into a stop loss contract with Highmark at a rate per month of \$29.34/single coverage and \$83.98/family coverage with an annual specific deductible of \$295,000 effective May 1, 2023.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Demolition
&
Abatement
Contract**

Mike Costello, Government Affairs Manager presented an agreement for demolition and abatement contract for 27177 John J. Williams Highway for Council's consideration. Mr. Costello reported that in June of last year, Mr. Lawson updated the Council on the County's acquisition of properties for open space. One of those parcels is known as the Dawson tract, about a 40-acre parcel located on Route 24 which requires some remediation. An RFP was put out soliciting bids from contractors to do the work on the property. There was a total of five bids received.

**M 184 23
Approve
Demolition
&
Abatement
Contract**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved that the Sussex County Council approve the agreement for the demolition and abatement to be conducted on parcel 234-28.00-172.00, in the amount of \$58,369.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Removal
Procedures
of
Appointed
Boards,
Commissi-
ons &
Advisory
Committees**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO ADD A NEW CHAPTER (CHAPTER 30) TO THE COUNTY CODE TITLED “REMOVAL PROCEDURES FOR MEMBERS OF APPOINTED BOARDS, COMMISSIONS, AND ADVISORY COMMITTEES”.

Mr. Moore pointed out that the Proposed Ordinance was discussed back when Mr. Wilson was on County Council. There is some thought that the Council already has the authority because it does reference in the Code that the Council has the right to replace members who have been removed. However, there is nothing discussing that process, therefore, the thought is that it is best to have an Ordinance. The Proposed Ordinance gives the Council the authority with a majority vote to remove any member of the individual entities that are appointed by the Council.

Mr. Moore added that there were some typos that were corrected in the Proposed Ordinance, however, there were no substantive changes.

There were no public comments.

The Public Hearing and public record were closed.

**M 185 23
Amend
Section 30-
3A/NO
SECOND**

A Motion was made by Mrs. Green to amend the first sentence of section 30-3 A. to require that any removal be for cause by adding the words “for cause” after the word “terms”.

Mr. Rieley commented that he believed that all of the reasons would then need to be listed. Mr. Moore reported that it would best to list the specific causes to define those. He added that the Proposed Ordinance was shared with the personnel attorney; at that time, this was the recommended verbiage.

Mrs. Green commented that it would provide clarity and there wouldn’t be the idea that someone was being removed because of how they were voting.

There was no second to the Motion, therefore, the Motion died.

M 186 23

A Motion was made by Mrs. Green to amend the first sentence of section

**Amend
Section 30-
3A/NO
SECOND**

30-3 A by changing it to state that “removal will require an affirmation super majority vote of four members by the County Council”.

Mr. Rieley commented that it seemed like a high standard.

There was no second to the Motion, therefore, the Motion died.

**M 187 23
Adopt
Ordinance
No. 2919/
Removal
Procedures**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2919 entitled “AN ORDINANCE TO ADD A NEW CHAPTER (CHAPTER 30) TO THE COUNTY CODE TITLED “REMOVAL PROCEDURES FOR MEMBERS OF APPOINTED BOARDS, COMMISSIONS, AND ADVISORY COMMITTEES” with the recommended typographical changes.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent

**Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Permission
to Prepare
& Post
Notices/
Suncrest
Annexation
into
SCUSSD**

John Ashman, Director of Utility Planning and Design Review presented an expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area) for Council’s consideration.

The Engineering Department received a request from Davis, Bowen & Friedel Inc. on behalf of their client WV3, LLC the owners/developers of a project to be known as Suncrest formerly Marsh Homestead. The parcel includes parcel 234-12.00-22.31.

The project is proposed at 36 single family homes on 18.02 acres. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates.

**M 188 23
Approve
Permission
to Prepare
& Post
Notices/
Suncrest**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved by the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Suncrest Expansion of the Sussex County Unified Sanitary Sewer District to include parcel 234-12.00-22.31 located along Waterview Road as presented.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**EMS Public
Safety Bldg./
CO No. 24**

Hans Medlarz, County Engineer presented change order no. 24 for the EMS Public Safety Building, Project C19-04 for Council’s consideration. Mr. Medlarz reported that the proposed change order includes replacement of five storefront doors, addition of numerous wall sleeves by the electrical

subcontractor, new building lettering, additional wood trim around the perimeter of the Awards Wall and a credit for deletion of conductors to the wireless access points.

M 189 23
Approve CO
No. 24/EMS
Public
Safety Bldg.

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 24 for contract C19-04, Sussex County Public Safety Building, be approved, for an increase of \$32,358.12.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Bulk
Delivery/
Sodium
Hypochlor-
ite &
Magnesium
Hydroxide

Hans Medlarz, County Engineer presented a recommendation to award for bulk delivery of sodium hypochlorite and magnesium hydroxide for Council's consideration. Mr. Medlarz reported that bids were prepared for the annual procurement; two bids were received for each one. It is being recommended to award to the low bidder.

M 190 23
Approve
Bulk
Delivery/
Sodium
Hypochlor-
ite &
Magnesium
Hydroxide

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that contract M23-12 & M23-13, bulk delivery of Sodium Hypochlorite and Magnesium Hydroxide, be awarded to Univar Solutions at the unit price of \$2.37 per gallon and Premier Magnesia at the unit price of \$3.27 per gallon respectively for FY24 and FY25 if extended.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Herring
Creek/CO
No. 1

Hans Medlarz, County Engineer presented change order no. 1 for Herring Creek Sanitary Sewer District: South Gravity Sewer and Force Main, Project S20-08 for Council's consideration. Mr. Medlarz reported that the contractor has experienced a number of issues slowing the progress down .0including the lack of workforce.

M 191 23
Approve CO
No. 1/
Herring
Creek

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 1 for Contract S20-08, Herring Creek Sanitary Sewer District: South Gravity Sewer and Force Main, Phase III be approved, increasing the contract time by 180-calendar days, contingent upon USDA concurrence.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Grant
Requests**

Mrs. Jennings presented grant requests for Council’s consideration.

**M 192 23
First State
Community
Action
Agency**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$500 (\$500 from Mr. Rieley’s Councilmanic Grant Account) to First State Community Action Agency for their CommUnity clean-up for Georgetown.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**M 193 23
DE
Community
Foundation**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000 (\$200 from each Councilmanic Grant Account) to Delaware Community Foundation for their Flags for Heroes program.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**M 194 23
Rehoboth
Summer
Children’s
Theatre**

A Motion was made by Mr. Hudson, seconded Mr. Rieley to give \$1,480 (\$1,480 from the Countywide Youth Grant Account) to Rehoboth Summer Children’s Theatre for their Summer Outreach Tour – Jack and the Beanstalk.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Introduction
of Proposed
Ordinances**

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.57 ACRES, MORE OR LESS” filed on behalf of Elk Development, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 22.97

M 198 23 **At 1:30 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to**
Reconvene **reconvene.**

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Rules **Mr. Moore read the rules and procedures for public hearings.**

Public **A Public Hearing was held on a Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY,**
Ord. No. **CHAPTER 115, ARTICLE XXIV, SECTION 115-172 AND ARTICLE**
23-04 **XXV, SECTION 115-194.5 TO ADD PROVISIONS FOR SPECIAL**
 REQUIREMENTS FOR SOLAR FARM CONDITIONAL USES”.

On February 7, 2023, the County Council introduced an Ordinance to consider a potential amendment to the Code for Sussex County relating to the Special Requirements for Solar Farm Conditional Uses. The Planning & Zoning Commission held a Public Hearing on the application on March 23, 2023. At the meeting of April 20, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for the 3 reasons stated and subject to the 5 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated March 23, and April 20, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the Proposed Ordinance; that the first revision as recommended from the Commission was the words “A landscaped” Should be added at line 64 of the Ordinance prior to the words “buffer strip”; that a new sentence should be added at line 65 before the final sentence to clarify how the buffer is measured, stating, “These measurements shall be taken from the property line to the nearest point of the solar panels or their support structures”; that the next revision is to revise the sentence at line 65 to confirm that waivers from the buffer strip requirement are possible in appropriate circumstances, so that this sentence now states “Provided, however, that the setbacks and/or buffering may be increased or waived due to particular site-related conditions”; that Condition D is to revise line 118 so that it now states “Solar panels and similar uses that are accessory to or ancillary to the principal or permitted use ...”; that the last condition is the phrase “and not used for commercial purposes” should be deleted from Line 119; that during the public hearing it was discussed that all solar farms are commercial; that the owners of the farm generate electricity for credits which is a commercial activity.

Public comments were heard.

**Public
Hearing/
Ord. No.
23-04
(continued)**

Mr. Mike Riemann from Becker Morgan Group, Inc. spoke on behalf of the American Council of Engineering Company; that a letter was submitted; that the revisions all make sense after review of the Proposed Ordinance; that he is in agreement of an adoption of an Ordinance that provides clarity to designers; that he would suggest a setback of 75-ft. versus 100-ft., which would be more consistent to setbacks in other jurisdictions; that they would suggest consistently using the term solar panel within the ordinance; that their biggest request was for the County to find some way for solar farms to be permitted as a by-right use; that the ordinance maintains the Conditional Use requirement; that the Conditional Use is a lengthy process, taking a year or more; that requirements within the ordinance will answer many of the concerns typically raised by the public; that solar farms create a minimal impact; that there is no increase to traffic, no noise, no smell or run off; that the majority of the objects they typically hear are related to visibility screening and decommissioning; that the proposed ordinance properly addresses these concerns with the requirement of a Decommissioning Plan and bonding to be put into place; that there has not been any significant opposition to any of the solar applications which had previously been heard by the Council; that Kent County created an acreage requirement for the by-right use for solar projects; that in Kent County, the solar project is only required to go through the Conditional Use process if someone were to object, otherwise, it is processed under Administrative Review; that he suggested consideration on the landscaping buffering; that in some instances, there is already existing forest; that the portion of the solar facility backs up to the remainder of the farm; that the intent is in 25 or 30 years it can go back to farming; that if you buffer the facility from the farm, you now have a buffer in the middle of the farm.

The Council found that Mr. David Hutt, Esq. with Morris James. LLP spoke on behalf of the Ordinance Application; that he commented during the Planning and Zoning Commission meeting; that the PZ Commission did incorporate his concerns with items D and E that he referenced; that the concern was it had to be accessory to or ancillary to the principal use; that it requested that it be the permitted use as well; that there are items that rise by Conditional Use and Special Use exception; that the additional language in D incorporates all of the various ways that a person can use their property; that the nature of solar panels is that they are used for commercial purposes; that if that language is not stricken, it would give Mr. Whitehouse and his staff a difficult time interpreting how to apply the Ordinance; that he supports the Planning and Zoning Commission's recommended changes.

The Public Hearing and public record were closed.

**M 199 23
Approve
Amendmen-
ts**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson that the Proposed Ordinance be amended with Items 4 A-E as recommended by the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 200 23
Approve
Ordinance
No. 2920/
Solar Farms**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2920 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XXIV, SECTION 115-172 AND ARTICLE XXV, SECTION 115-194.5 TO ADD PROVISIONS FOR SPECIAL REQUIREMENTS FOR SOLAR FARM CONDITIONAL USES” for the reasons and conditions given by the Planning and Zoning Commission as amended:

- 1. The County has seen a lot of applications for large scale solar facilities recently. Unlike other examples of similar applications like borrow pits, campgrounds and other codified uses, there is no set of standards in our zoning code for these solar farm applications. This Ordinance will codify the typical conditions that the County has placed upon solar farm applications and that will provide uniformity and predictability as to how they are considered.**
- 2. This Ordinance is consistent with our Comprehensive Plan’s directive to encourage the development of renewable energy from a utility-level standpoint.**
- 3. There was no opposition to the Ordinance, only constructive comments on ways to improve it.**
- 4. This recommendation is subject to the following suggested revisions to the text of the Ordinance:**
 - a. The words “A landscaped...” should be added at line 64 of the Ordinances prior to the words “buffer strip”.**
 - b. A new sentence should be added at line 65 before the final sentence to clarify how the buffer is measured, stating, “These measurements shall be taken from the property line to the nearest point of the solar panels or their support structures.”**
 - c. Revise the sentence at line 65 to confirm that waivers from the buffer strip requirement are possible in appropriate circumstances, so that this sentence now states, “Provided, however, that the setbacks and/or buffering may be increased or waived due to particular site-related conditions.”**
 - d. Revise Line 118 so that it now states “Solar panels and similar uses that are accessory to or ancillary to the principal or permitted use . . .”**
 - e. The phrase “and not used for commercial purposes” should be deleted from Line 119.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;**

Mr. Vincent, Yea

**Public
Hearing/
Ord. No.
23-01**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04” (properties lying on the southwest side of Zion Church Road [Route 20], approximately 605 feet northwest of Deer Run Road [S.C.R. 388], and the north side of Deer Run Road [S.C.R. 388], approximately 159 feet southwest of Zion Church Road [Route 20] (911 Address: 36054 Zion Church Road, Frankford) (Tax Map Parcels: 533-11.00-23.00, 23.03 & 23.04) (Zoning: AR-1 [Agricultural Residential])

The Planning & Zoning Commission held a Public Hearing on the application on March 23, 2023. At the meeting of March 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated.

(See the minutes of the Planning & Zoning Commission dated March 23, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Hans Medlarz with Sussex County Engineering spoke on behalf of the Application; that the County Council has the exclusive right to extend the sewer district boundary under Delaware law; that is the transition from a Tier 2 to a Tier 1; that Tier 2 is the planning area which gives the County the exclusive right to service in the future for that particular area; that the Tier 3 area is where the County has a first right of refusal, however, other private sewer providers can also operate in Tier 3; that within Tier 4, central sewer service and community sewer service is optional; that after land use approval, it will come before the County Council again to move it without a request into Tier 1.

Public comments were heard.

The Council found that David Hutt, Esq. with Morris James, LLP, spoke on behalf of the Proposed Ordinance; that he represents the owner of the property and the applicant that started the process; that Chapter 4 is significant to the Planning Commission, as it defines the property’s designation on the Future Land Use Map; that when looking at the four where-as clauses for the Ordinance, it states that part of the property is found within the Developing Area, with the balance of the property being located within the Coastal Area; that both of these areas are considered Growth Areas within Chapter 4 of the Comprehensive Plan; that the Ordinance states and supports the reasons why the amendment should be granted; that the Ordinance notes that within both growth areas, as stated

by the Comprehensive Plan, central sewage is strongly encouraged and based on this reasoning, and the Applicant would request the Council recommend approval of the Sewer Tier Map amendment.

The Public Hearing and public record for the purpose of a response from the Office of State Planning.

**M 201 23
Defer
Action/Ord.
No. 23-01**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN FROM THE TIER 4 AREA (SYSTEM OPTIONAL AREAS) TO THE TIER 2 (SUSSEX COUNTY PLANNING AREA) IN RELATION TO TAX PARCELS 533-11.00-23.00, 23.03 & 23.04.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2346**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 63.86 ACRES, MORE OR LESS” (property lying on the north side of Dorothy Road [Rt. 64] and the west side of Sussex Highway [Rt. 13]) (911 Address: N/A) (Tax Map Parcel: 332-7.00-19.00)

The Planning & Zoning Commission held a Public Hearing on the application on March 9, 2023. At the meeting of March 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 11 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated March 9 and 23, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Application; that also present was Mr. Jordan Belknap, Director of Development with Turning Point Energy; that the property is located in Laurel, along Dorothy Road; that the proposed use is for a community solar project; that the property is zoned AR-1 (Agricultural Residential); that half of the site is in existing agricultural use; that the remaining half of the site is comprised of existing woodlands; that the existing woodlands are intended to remain;

**Public
Hearing/
CU2346
(continued)**

that the solar array area is comprised of just over 20 acres; that when including the proposed buffers the solar array area is comprised of approximately 27 acres of the site; that the total parcel area is just under 74 acres.

The Council found that Mr. Jordan Belnap spoke on behalf of the Application; that Turning Point Energy is an experienced solar energy developer, who is active in Delaware, as well as several other U.S. markets; that Turning Point Energy focuses on developing community solar energy facilities; that Turning Point believes their projects should create economic, environmental and community value; that their business creates economic value through their community solar projects; that community solar provides ability for residents to subscribe to a solar project, allowing the resident to receive credits which can be applied to the electric bill; that their business provides environmental value by building facilities that generate clean, renewable energy, which replaces more carbon intensive forms of electricity generation; that their business creates community value by making charitable contributions for every project they do, to organizations who are on the ground and making a difference within their local communities; that on September 17, 2021, Senate Bill 2 was signed into the law in the State of Delaware, allowing for the development of community solar facilities; that community solar is a model where residents, businesses, and organizations can subscribe to the facilities, allowing them to receive credits to reduce their electric bill; that the cost of the credit is less than the value of the credit received; that many homeowners have installed solar energy on their homes; that not all residences are suitable for installation of solar energy systems; that community solar allows residents to go solar without the requirement of installing a solar energy system; that community solar is especially appealing to low-income households, condominiums, mobile homes, and properties that may not be well suited for solar energy systems; that it allows a community solar developer to build a cost effective solar farm, being at a lower cost per watt; that it allows the solar developer to pass the savings onto homeowners and businesses in the area; that this project, as well as all of their projects, allows Sussex County residents to source their renewable energy locally, while saving money; that the solar project will not create any long-term increase in traffic; that their solar facilities are remotely monitored; that their facilities do have periodic inspections; that a team would visit the facility if any issue should arise; that the existing vegetation at their facilities is maintained; that one pick-up truck may visit the site monthly, once the facility is in operation; that the local nature of the energy production helps to ease the burden on the transmission system; that energy is used in closer proximity to the point of the generation; that all facility sites are enhanced with pollinator friendly seed mix; that the proposed type of development is not permanent development; that the site is able to return to its existing state at the end of the project's life; that the project will be fully decommissioned, and removed from the premise, at the end of its useful life; that Turning Point Energy feels the solar project promotes the goal of the Sussex County Comprehensive Plan, as set forth in Goal 7.3,

**Public
Hearing/
CU2346
(continued)**

which encourages the use of renewable energy options, such as solar farms, and the solar farm will be a benefit to Sussex County citizens. Mr. Falkowski stated that they have proposed a 25-ft wide landscaped buffer between the site and adjacent residential properties; that the 25-ft wide landscape buffer will be comprised of 12 trees and 15 understory shrubs, per 100 linear feet of the buffer; that the landscape buffer will surround the site until it ties into the existing woodlands on the rear of the site; that additionally, they are proposing a chain-link fence, being a minimum of seven foot in height, to completely surround the property that the chain-link fence with have an access gate, containing a Knox box for emergency provisions; that they have allowed area for emergency vehicle turn around; Mr. Belnap did host and attend a community outreach meeting on February 8, 2023, which was held at the Laurel Fire Department; that the project would not create an increase in traffic; that only one to two maintenance visits per month are anticipated; that the facility will not produce any odors, dust, gas, smoke and/or fumes; that the project will create little to no noise from the power inverters, which are proposed to be centrally located, away from any adjacent residences; that a Glare Study was completed for the site; that the Glare Study indicated there would be no adverse impacts to adjacent properties; that a pollinator seed mix is proposed for the site; that by doing this it will create the existing agricultural land to become a meadow; that the presence of a meadow will reduce stormwater runoff; that they will seek approval from Sussex Conservation District for this; that the project does have a decommissioning plan for when the solar farm has reached the end of its operation life; that the proposed project meets the purposes of a Conditional Use, as the use is of public or semi-public character; that the proposed use is essential and desirable for the general convenience and welfare of Sussex County residents and the proposed project will have no adverse impact on any of the neighboring properties.

Public comments were heard.

Mr. Judson Malone spoke in favor of the application; that he is the Executive Director of the Pallet Shelter Village for people who are chronically homeless; that he is in favor of this project; that there is a crisis in the housing and energy costs; that there are times that people are unable to afford a house; that community solar is an excellent approach; that solar does not have to be put on every rooftop and you still receive the same benefits.

The Public Hearing and public record were closed.

**M 202 23
Defer
Action/
CU2346**

A Motion was made by Mr. Vincent, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED

ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 63.86 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2347**

A Public Hearing was held for a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.33 ACRES, MORE OR LESS” (property lying on the east side of North Old State Road [S.C.R. 213], approximately 0.10 mile north of the intersection of Haflinger Road [S.C.R. 625]) (911 Address: N/A) (Tax Map Parcel: 230-12.00-39.00)

The Planning & Zoning Commission held a Public Hearing on the application on March 9, 2023. At the meeting of March 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 9 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated March 9, and 23, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, Inc., spoke on behalf of the Application; that also present was Mr. Jordan Belknap, Director of Development with Turning Point Energy; that the customer has to be with the same utility company as where the project is located; that these are DP&L projects; that the customer would also have to be a customer of DP&L; that it is desired for those in the surrounding community to participate in these projects; that most utility companies are not going to write out a check to a customer for exceeding the amount that they use; that a customer’s usage on an annual basis is reviewed to target the amount of credits that are purchased; that most markets are fully subscribed.

The Council found that Mr. Jordan Belnap spoke on behalf of the Application; that Turning Point Energy is an experienced solar energy developer, who is active in Delaware, as well as several other U.S. markets; that Turning Point Energy focuses on developing community solar energy facilities; that Turning Point believes their projects should create economic,

**Public
Hearing/
CU2347
(continued)**

environmental and community value; that their business creates economic value through their community solar projects; that community solar provides ability for residents to subscribe to a solar project, allowing the resident to receive credits which can be applied to the electric bill; that their business provides environmental value by building facilities that generate clean, renewable energy, which replaces more carbon intensive forms of electricity generation; that their business creates community value by making charitable contributions for every project they do, to organizations who are on the ground and making a difference within their local communities; that on September 17, 2021, Senate Bill 2 was signed into the law in the State of Delaware, allowing for the development of community solar facilities; that community solar is a model where residents, businesses, and organizations can subscribe to the facilities, allowing them to receive credits to reduce their electric bill; that the cost of the credit is less than the value of the credit received; that many homeowners have installed solar energy on their homes; that not all residences are suitable for installation of solar energy systems; that community solar allows residents to go solar without the requirement of installing a solar energy system; that community solar is especially appealing to low-income households, condominiums, mobile homes, and properties that may not be well suited for solar energy systems; that it allows a community solar developer to build a cost effective solar farm, being at a lower cost per watt; that it allows the solar developer to pass the savings onto homeowners and businesses in the area; that this project, as well as all of their projects, allows Sussex County residents to source their renewable energy locally, while saving money; that the solar project will not create any long-term increase in traffic; that their solar facilities are remotely monitored; that their facilities do have periodic inspections; that a team would visit the facility if any issue should arise; that the existing vegetation at their facilities is maintained; that one pick-up truck may visit the site monthly, once the facility is in operation; that the local nature of the energy production helps to ease the burden on the transmission system; that energy is used in closer proximity to the point of the generation; that all facility sites are enhanced with pollinator friendly seed mix; that the proposed type of development is not permanent development; that the site is able to return to its existing state at the end of the project's life; that the project will be fully decommissioned, and removed from the premise, at the end of its useful life; that Turning Point Energy feels the solar project promotes the goal of the Sussex County Comprehensive Plan, as set forth in Goal 7.3, which encourages the use of renewable energy options, such as solar farms, and the solar farm will be a benefit to Sussex County citizens.

Mr. Falkowski stated that there were not many differentiators between the previous solar project application and the subject Application; that the subject site is located in Lincoln; that the parcel is zoned AR-1; that the property does not have many residential dwellings surrounding the site; that the parcel is comprised of 41 acres; that the portion proposed for the solar project is comprised of 18 acres; that they have modified the solar array layout from what was initially submitted; that the modification came

**Public
Hearing/
CU2347
(continued)**

after discussions with the property owner, to avoid an existing irrigation pivot, located at the center of the site; that by avoiding the pivot it would allow existing full irrigation and farming operations to continue on the site; that the site is mostly surrounded by agricultural uses, therefore they are not proposing a landscape buffer on the site; that there are adjacent buffers; that there is a considerable amount of space between the array and any residential units; that the railroad is to the East; that there is no objection if the same 25-foot landscape buffer as shown previously along the road frontage if desired; that it is a 2 mega-watt AC system; that they are proposing a chain-link fence, being a minimum of seven foot in height, to completely surround the property; that the chain-link fence will have an access gate, containing a Knox box for emergency provisions; that they have allowed area for emergency vehicle turn around; that Mr. Belnap did host and attend a community outreach meeting on February 7th, 2023; that the project will not create any increase in traffic; that only one to two maintenance visits per month are anticipated; that the facility will not produce any odors, dust, gas, smoke and/or fumes; that the project will create little to no noise from the power inverters, which are proposed to be centrally located, away from any adjacent residences; that a Glare Study was completed for the site; that the Glare Study indicated that there would be no adverse impacts to adjacent properties; that a pollinator seed mix is proposed for the site; that by doing this it will create the existing agricultural land to become a meadow; that the presence of a meadow will reduce stormwater runoff; that they will seek approval from Sussex Conservation District for this; that a seven foot chain-link fence is proposed to surround the site; that the project does have a decommissioning plan for when the solar farm has reached the end of its operation life; that the proposed project meets the purposes of a Conditional Use, as the use is of public or semi-public character; that the proposed use is essential and desirable for the general convenience and welfare of Sussex County residents; that the proposed project does promote Goal 7.3 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy and the proposed project will have no adverse impact on any of the neighboring properties.

Public comments were heard.

Mr. Randy Ennis spoke in favor of the application; that he is the trustee of the property; that also present was his mother, Joyce; that the land has been in the family for many years; that the family is against the idea of developing the land; that he is a supporter of green energy; that they have accommodated the irrigation with the existing farmer; that there is bonding and other measures to be sure that it will be restored to farming in the future; that he requested support for the Application.

Mr. Falkowski noted that if needed, they agree to provide the same 25-ft. buffer along Loftland Drive and any other areas as requested.

Mr. Judson Malone spoke in favor of the application; that he supports all of

**these solar projects.
The Public Hearing and public record were closed.**

**M 203 23
Defer
Action/
CU2347**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.33 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 204 23
Adjourn**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to adjourn at 2:22 p.m.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

{An audio recording of this meeting is available on the County’s website.}

SUSSEX COUNTY COUNCIL

BUDGET WORKSHOP

MAY 2, 2023

The Sussex County Council held a Budget Workshop on May 2, 2023, beginning at 9:00 a.m. at the Sussex County Emergency Operations Center in Georgetown for the purpose of discussing the Proposed FY 2024 Budget.

The following were present:

Michael H. Vincent	President
John L. Rieley	Vice President
Douglas B. Hudson	Councilman
Cynthia C. Green	Councilwoman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
Kathy Roth	Deputy Finance Director
Andrea Wall	Accounting Manager

Mr. Lawson stated that the purpose of the Budget Workshop was to hold an open discussion among the County Council, County Administrator, and staff regarding budget matters and initiatives which will affect the FY 2024 Budget.

An overview of FY 2023 Budget accomplishments and highlights of the Proposed FY 2024 Budget were presented.

Department presentations were provided by the following departments: Paramedics and Engineering - Water and Sewer (Operating and Capital). Presentations were also given on Grants and Capital projects.

No action was taken.

The workshop concluded at 1:04 p.m.

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

ENGINEERING DEPARTMENT

ADMINISTRATION (302) 855-7718
AIRPORT & INDUSTRIAL PARK (302) 855-7774
ENVIRONMENTAL SERVICES (302) 855-7730
PUBLIC WORKS (302) 855-7703
RECORDS MANAGEMENT (302) 854-5033
UTILITY ENGINEERING (302) 855-7717
UTILITY PERMITS (302) 855-7719
UTILITY PLANNING (302) 855-1299
FAX (302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Forest Landing Expansion of the Sussex County Unified Sanitary Sewer District (Ellendale Area)

PUBLIC HEARING FACT SHEET

- County Council granted permission to prepare and post notices for a public hearing for the Forest Landing Expansion on March 28, 2023.
- The Engineering Department had received a request from Davis, Bowen & Friedel, Inc. on behalf of their client OA Forest Landing, LLC owners/developers of parcels 230-19.00-112.00 & 230-20.00-12.00 along N. Old State Road.
- The parcels have been annexed into the Town of Ellendale and Sussex County provides the sanitary sewer service for the town.
- The parcels are located in the Tier 2 Area for sewer service and will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The property was posted on April 18, 2023 and posted on the county website.
- To date we have received no correspondence either in support or opposition to this annexation.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947

RESOLUTION

A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ELLENDALE AREA, TO INCLUDE TWO PARCELS ON THE EAST SIDE OF NORTH OLD STATE ROAD LOCATED IN THE CEDAR CREEK HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

WHEREAS, Sussex County has established the Sussex County Unified Sanitary Sewer Sanitary Sewer District (SCUSSD); and

WHEREAS, in the best interests of the present district and to enhance the general health and welfare of that portion of Sussex County in the vicinity of Ellendale, the inclusion of this area will be beneficial; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (a), the Sussex County Council may, upon request of the County Engineer, revise the boundary of an established sewer district when 50 or more houses have been connected by posting a public notice in four public places in the district describing the new or revised boundary; and

WHEREAS, the Sussex County Council has caused to be posted a public notice in at least four public places in the district, as verified by the affidavit of Phillip C. Calio, a copy of which affidavit and public notice is attached hereto and made a part hereof; and

WHEREAS, in accordance with 9 Del.C., Section 6502 (b), the Sussex County Council shall, within ninety days after posting the public notices pass a formal resolution establishing the new boundary of the district;

NOW, THEREFORE,

BE IT RESOLVED the Sussex County Council hereby revises the boundary of the SCUSSD to encompass the lands mentioned above in the Forest Landing area and further described as follows:

Beginning at a point, said point being on the Sussex County Unified Sanitary Sewer District (SCUSSD) boundary, said point also being on the easterly Right-of-Way (ROW) of Old State Road (SCR 213), approximately 1,540' north of the intersection with Ingram Blvd.; thence leaving said SCUSSD boundary and continuing with said ROW N00°21'26"W 2,007.80' to a point, said point being the northwesternmost corner of lands Now-or-Formerly (N/F) of LFW Delaware Holdings 2015, LLC; thence leaving said ROW and proceeding with the following 3 courses and distances, (1) S81°06'14"E 1070.01', (2) S27°33'14"E 528.12', (3) N60°20'32"E 309.04' to a point, said point being on the westerly ROW of Peninsula Lines LLC; thence proceeding in a northwesterly direction a distance of 60'± to a point, said point being on the easterly ROW of Peninsula Lines LLC; thence leaving said ROW and proceeding the following 9 courses and distances, (1) N60°19'57"E 658.90', (2) S01°47'08" 349.80', (3) S00°12'48"W 165.02', (4) S11°38'52"E 165.00', (5) S27°56'06"E 891.73', (6) S37°38'21"E 732.95' (7) S61°35'21"W 846.61', (8) N30°15'59"W 336.12', (9) S63°43'26"W 560.25' to a point, said point being on the easterly ROW of Peninsula Lines LLC; thence proceeding in a southwesterly direction a distance of 60' to a point, said point being on the westerly ROW of Peninsula Lines LLC, said point also being on the SCUSSD boundary; thence proceeding by and with said boundary the following three (3) courses and distances, (1) S89°45'43"W 1448.53', (2) N00°14'02"W 539.25', (3) S89°50'57"W 149.27' to a point, said point being **that place of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 230-19.00, 230-20.00 and Sussex County property assessment records. The annexation contains 126 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched and highlighted.

BE IT FURTHER RESOLVED that the Sussex County Council directs the County Engineer and the Attorney for the County Council to procure the necessary lands and right-of-way by purchase, agreement, or condemnation in accordance with the existing statutes; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any and all structures required to provide for the safe disposal of sewage in the sanitary sewer district, as amended.

PUBLIC NOTICE

PROPOSED FOREST LANDING EXPANSION OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (ELLENDALE AREA)

NOTICE IS HEREBY GIVEN that the Sussex County Council voted on **March 28, 2023**, to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), (Ellendale Area), to include two parcels on the east side of North Old State Road and north of the Town of Ellendale, being situate in Cedar Creek Hundred, Sussex County, Delaware.

This action is in conformity with 9 Del. C §6502.

A description of the area, which is contiguous to and to be added to the SCUSSD is described as follows:

Beginning at a point, said point being on the Sussex County Unified Sanitary Sewer District (SCUSSD) boundary, said point also being on the easterly Right-of-Way (ROW) of Old State Road (SCR 213), approximately 1,540' north of the intersection with Ingram Blvd.; thence leaving said SCUSSD boundary and continuing with said ROW N00°21'26"W 2,007.80' to a point, said point being the northwesternmost corner of lands Now-or-Formerly (N/F) of LFW Delaware Holdings 2015, LLC; thence leaving said ROW and proceeding with the following 3 courses and distances, (1) S81°06'14"E 1070.01', (2) S27°33'14"E 528.12', (3) N60°20'32"E 309.04' to a point, said point being on the westerly ROW of Peninsula Lines LLC; thence proceeding in a northwesterly direction a distance of 60'± to a point, said point being on the easterly ROW of Peninsula Lines LLC; thence leaving said ROW and proceeding the following 9 courses and distances, (1) N60°19'57"E 658.90', (2) S01°47'08" 349.80', (3) S00°12'48"W 165.02', (4) S11°38'52"E 165.00', (5) S27°56'06"E 891.73', (6) S37°38'21"E 732.95' (7) S61°35'21"W 846.61', (8) N30°15'59"W 336.12', (9) S63°43'26"W 560.25' to a point, said point being on the easterly ROW of Peninsula Lines LLC; thence proceeding in a southwesterly direction a distance of 60' to a point, said point being on the westerly ROW of Peninsula Lines LLC, said point also being on the SCUSSD boundary; thence proceeding by and with said boundary the following three (3) courses and distances, (1) S89°45'43"W 1448.53', (2) N00°14'02"W 539.25', (3) S89°50'57"W 149.27' to a point, said point being **that place of Beginning**.

NOTE: The above description has been prepared using Sussex County Tax Map 230-19.00, 230-20.00 and Sussex County property assessment records. The annexation contains 126 acres more or less.

A map outlining and describing the extension of the SCUSSD is attached. The area involved is crosshatched.

The public hearing will be held on this issue at 10:15 a.m. on May 9, 2023, in the Sussex County Council Chambers, County Administrative Offices, 2 The Circle, Georgetown, Delaware. All interested persons, officials, residents, voters, taxpayers, property owners, or corporations in any way affected by this boundary extension are welcome to attend. There will be an opportunity for questions and answers. The Sussex County Council following the hearing, at one of their regularly scheduled meetings, will make the final decision on the boundary extension.

For further information, please call or write the Sussex County Engineering Department, 2 The Circle, Post Office Box 589, Georgetown, DE 19947 – (302) 855-7370.

Hans M. Medlarz, P.E.
County Engineer

PROPOSED ELLENDALE WATER DISTRICT
AFFIDAVIT FOR REFERENDUM

STATE OF DELAWARE)(

COUNTY OF SUSSEX)(

BE IT REMEMBERED, That the subscriber, PHILLIP C. CALIO, personally appeared before me and known to me personally to be such, who being by me duly sworn to law did depose and say as follows:

- A. On April 18, 2023 he was a Utility Planner for the Sussex County Engineering Department, Sussex County, State of Delaware; and
- B. On April 18, 2023 he did post the attached "Public Notice," prepared by the Sussex County Engineering Department, at the following locations:
1. On a post in front of stop sign at the exit of Royal Farms in the northerly ROW of Beach Hwy (Rt. 16),
 2. On a post in front of Stop sign at the exit of Dollar General in the southerly ROW of Beach Hwy (Rt. 16),
 3. On a post in front of Stop sign in the northerly ROW of Gladys Street at the intersection with North Old State Road (RD 213),
 4. On a post in front of a DPL pole 51819/09239 in the westerly ROW of North Old State Road (Rd. 213) in front of New Hope Recreation & Development Center,
 5. On a post in the easterly ROW of North Old State Road (SCR 213), 667'± south of Fleatown Road (SCR 224),
 6. On a post in the easterly ROW of North Old State Road (SCR 213), 1,416'± south of Fleatown Road (SCR 224),
 7. On a post in the easterly ROW of North Old State Road (SCR 213), 1,851'± south of Fleatown Road (SCR 224),
 8. On a post in the easterly ROW of North Old State Road (SCR 213), 2,168'± south of Fleatown Road (SCR 224).


PHILLIP C. CALIO

SWORN TO AND SUBSCRIBED before me on this 19 day of April A.D., 2023


NOTARY PUBLIC

JACQUELINE D. CLARK
NOTARY PUBLIC

My Commission Expires _____
STATE OF DELAWARE
My Commission Expires on May 30, 2023

Proposed Annexation Forest Landing

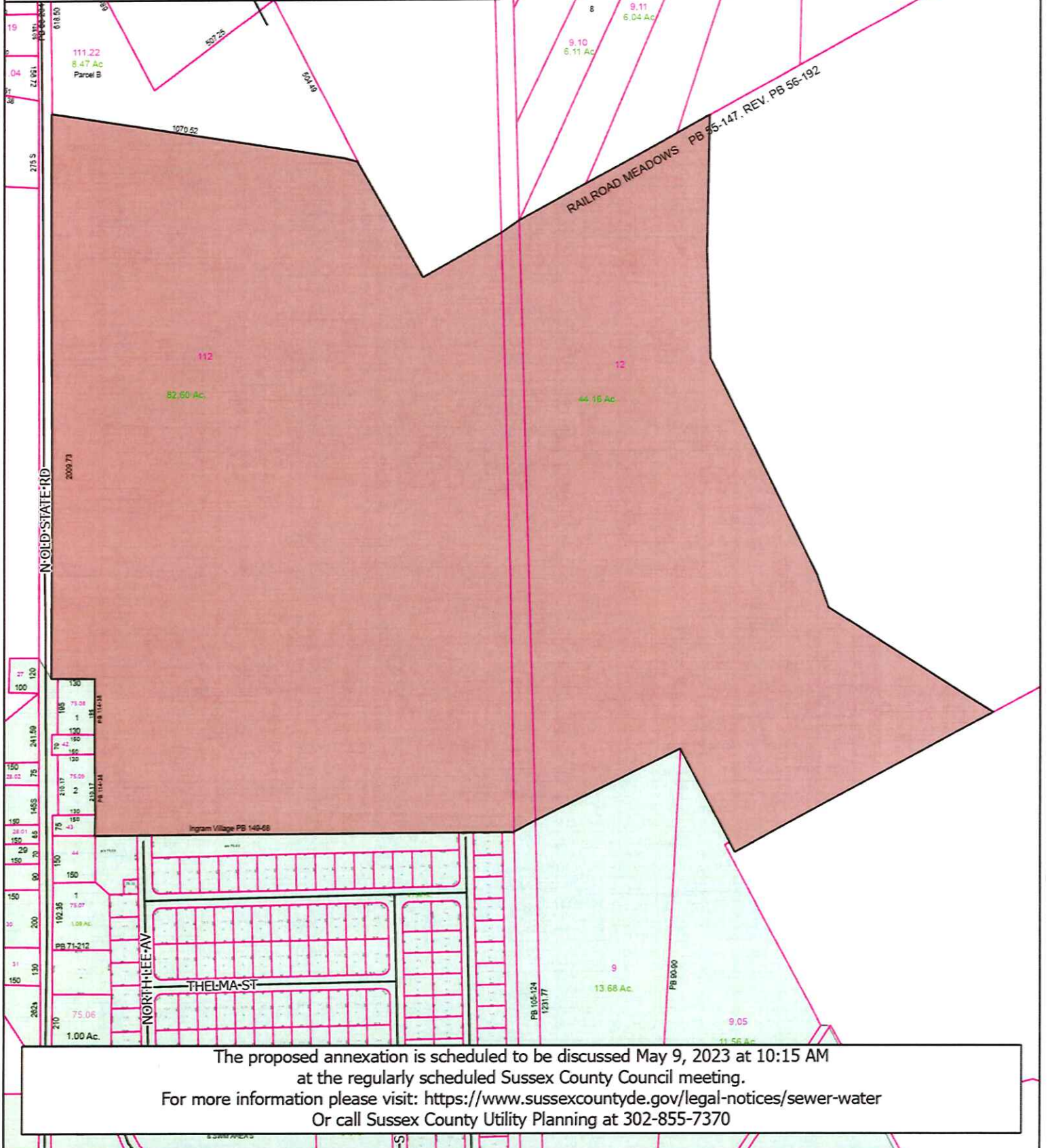
Existing SSD Parcels of Interest



0 150 300 600
Feet



3/30/2023



The proposed annexation is scheduled to be discussed May 9, 2023 at 10:15 AM
at the regularly scheduled Sussex County Council meeting.
For more information please visit: <https://www.sussexcountyde.gov/legal-notice/sewer-water>
Or call Sussex County Utility Planning at 302-855-7370



Caring People, Quality Service

SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

22215 Dupont Blvd. • P.O. Box 589 • Georgetown, DE 19947 • 302-854-5050 • FAX 302-855-7780

Robert W. Murray

Director



TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Cynthia C. Green
The Honorable Mark G. Schaeffer
The Honorable Douglas B. Hudson

FROM: Robert Murray, Director 

RE: FirstWatch Solutions Inc, Software License Agreement – Addendum 1

DATE: May 9, 2023

In 2005, Sussex County EOC entered into an agreement with FirstWatch Solutions, Inc. (FirstWatch) to assist with data collection and “real time” notification of agreed upon events, known as triggers. For many years, Director Thomas has allowed Sussex County EMS to utilize some of the FirstWatch capabilities to monitor EMS operational performance indicators. With the growth experienced in each department, we are unable to continue to meet our operational needs working solely through their agreement. In addition, we hope to incorporate FirstPass Clinical QI Module in our quality improvement program and have it serve as the first line peer chart review. This will reduce the workload of our staff. Our staff are busier today versus past years. FirstPass, through FirstWatch, can scrub all peer chart reviews and red flag charts that do not meet our predefined metrics. This can be done in real time and provide a timelier, more accurate feedback.

When we met with the team from FirstWatch they suggested creating an addendum to the existing agreement from 2005. Doing so would save approximately \$10,000 versus creating an EMS stand-alone agreement. Director Thomas has agreed to the addendum.

We are asking for your support to allow both Director Thomas and me to sign the addendum authorizing expansion of the FirstWatch program to EMS. The initial contract cost is \$76,916.82. On-going annual costs are estimated at \$13,000. I have attached it for your review.

In review, this program will allow us to expand operational utilization ultimately improving our service. In addition, with the expansion in the clinical review side, this will reduce the daily workload of our staff by automating the initial peer chart review system.

Todd F. Lawson
Administrator



The final piece of this implementation is a data exchange agreement allowing FirstWatch access to our patient care records. I am seeking permission to enter into an agreement with ImageTrend.

ImageTrend is the company used by the state for all electronic EMS patient care records. To utilize FirstWatch to review those patient care reports, an agreement must be in place and a data exchange agreement must be established between FirstWatch and ImageTrend. The annual cost associated with this is \$5,000 for ImageTrend. The cost for FirstWatch is included in the cost mentioned above. The language in the agreement has not been finalized between county legal and ImageTrend legal. We are requesting that once that language is approved that I am authorized to sign.

This represents a significant commitment to improving our data collection and reviews on both the operational and clinical side. Much of the data you see today comes from FirstWatch, chute times, response times, percentage of times we meet the 8-minute threshold all from FirstWatch. With this proposed expansion, opportunities to collect and review data are endless. Also, the opportunity to receive real time notifications of system status, to include available resources in the county, extended dwell times at the hospitals, or significant increases of a particular type of call in a close area (think overdoses). All this information can be used to address issues in real time.

Enclosure

- Proposed motion
- FirstWatch Solutions, Inc – Addendum 1
- ImageTrend Agreement

Motion – FirstWatch & Image Trend

Be it moved that Sussex County support Director Thomas and Director Murray allowing them to execute the proposed FirstWatch Addendum and when finalized that Director Murray execute the ImageTrend agreement thus supporting FirstWatch expansion into EMS.

FIRSTWATCH SOLUTIONS, INC.
SOFTWARE LICENSE AGREEMENT – ADDENDUM 1

A Software License Agreement (hereinafter referred to as the “Agreement”) exists between FirstWatch Solutions, Inc. (hereinafter referred to as “FirstWatch”) and Sussex County EOC (hereinafter referred to as “Client”), collectively the parties. In accordance with and incorporated to that Agreement, the following modifications are agreed to:

RECITALS:

WHEREAS, on or about May 31, 2005, FirstWatch and Client entered into an Agreement; and

WHEREAS, the parties would now like to modify the Agreement to:

1. Include Attachment 1, quote for adding Sussex County EMS to the existing Agreement.
2. Sussex County EMS will be responsible for all cost associated with the Services as described within Attachment 1.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Except as specifically modified by this Addendum, the Agreement shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the day and year last set forth below.

Sussex County EOC

By: _____

Name: _____

Title: _____

Date: _____

FirstWatch Solutions, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Sussex County EMS

By: _____

Name: _____

Title: _____

Date: _____

FIRSTWATCH SOLUTIONS, INC.
SOFTWARE LICENSE AGREEMENT – ADDENDUM 1
ATTACHMENT 1

FirstWatch Solutions, Inc.
 1930 Palomar Point Way, Suite 101
 Carlsbad, California 92008 USA
 Phone: 760-943-9123 Fax: 760-268-0922
 Atten: Dave Amaya, Regional Manager (Ph Ext 287)



**System Enhancement
Quote**

Customer Information:

Name: **Jay Shine, Manager of Operations**
 Organization: **Sussex County EMS**
 Address: **P.O. Box 589**
 City, ST Zip: **Georgetown, DE 19947**
 Phone: **302-265-6344**
 Email: **jshine@sussexcountyde.gov**

Quote Information:

Date: 3/21/2023
 Expiration Date: 9/17/2023
 Call Volume: 30,000

Qty	Description	Unit Price	Item Total
Data Source 3 (DS3) - ImageTrend Elite			
1	(DS31) System License - ePCR	\$16,981.00	\$16,981.00
1	(DS3) Annual Support & Maintenance	\$3,735.82	\$3,735.82
1	(DS3) Data Source Integration	\$7,500.00	\$7,500.00
	Sub-total		\$28,216.82
Triggers			
10	Standard FirstWatch Triggers	\$400.00	\$4,000.00
10	Standard FirstWatch Triggers Annual Support & Maintenance	\$200.00	\$2,000.00
	Sub-total		\$6,000.00
Interactive Data Visualization Module (IDV)			
1	IDV add-on (Requires a Trigger - either new or existing)	\$2,500.00	\$2,500.00
1	IDV Annual Support & Maintenance	\$550.00	\$550.00
	Sub-total		\$3,050.00
Performance Plus Module (PP)			
1	Performance Plus Module (100 Sub-Triggers per Module)	\$2,500.00	\$2,500.00
1	Performance Plus Annual Support & Maintenance	\$550.00	\$550.00
	Sub-total		\$3,050.00
FirstPass Clinical QI Module			
1	FirstPass Module - Standard - Single ePCR & Agency OR Multi-Agency	\$30,000.00	\$30,000.00
1	FirstPass Module Annual Support & Maintenance	\$6,600.00	\$6,600.00
	Sub-total		\$36,600.00
Total of Items Above			\$76,916.82

FirstWatch offers the following payment option choices for your consideration

Option #1 - 'Software as a Service' Payments

System Enhancement 'Software as a Service' Start-up Services & 1st Month Subscription Fee - Total:	\$19,632.27
Monthly Subscription Fee:	\$2,132.27

- OR -

Option #2 - Payment of All Year One Fees

System Enhancement (Payment of All Year One Fees) - Total:	\$76,916.82
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Estimated Annual Support & Maintenance beyond Year 1 (not applicable to Software as a Service option above)

Estimated Annual Support & Maintenance for Year 2 (based on a 3% annual increase):	\$13,838.89
Estimated Annual Support & Maintenance for Year 3 (based on a 3% annual increase):	\$14,254.06
Estimated Annual Support & Maintenance for Year 4 (based on a 3% annual increase):	\$14,681.68
Estimated Annual Support & Maintenance for Year 5 (based on a 3% annual increase):	\$15,122.13

Important Project Notes

NOTE 1: If Customer's data from CAD, ePCR, RMS (or other system(s)) is to be provided to FirstWatch via another Vendors Hosted Environment, fees payable to that Vendor (not reflected/included in this project quote) may be required. FirstWatch recommends that the Customer learn about options and costs associated with their Hosted Vendors approach & process - as fees will likely be required by Vendor to establish data feed/connection into FirstWatch. If customer plans to switch Vendor for CAD, ePCR or RMS (other data system) from existing data interface feeding into FirstWatch, in addition to the Data Source Interface fee of \$7,500, additional work & fees will be required to convert specialized system enhancement modules such as FirstPass, OCU as well as Complex Triggers & Customized Reports, all of which can be Price upon Request (in advance). Also; when Customer selects a new Vendor (for CAD, ePCR or RMS (other data system)), FirstWatch highly recommends a minimum of 90-day advanced notice so as to provide quote for work required, as well as to allow FirstWatch enough lead time to plan conversion work prior to new system cut-over. Additional Details about Proposed Project and Data Source Interfaces and Changes are outlined on Page 2. All Fees Quoted are in US Dollars (USD).

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is entered into this ____ day of _____, 2023 (“**Effective Date**”), by and between **IMAGETREND, INC.** (“**Business Associate**”), and **SUSSEX COUNTY**, a political subdivision of the State of Delaware, by and through the **SUSSEX COUNTY EMERGENCY MEDICAL SERVICES** (“**Covered Entity**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, the Parties have entered, and may in the future enter, into one or more arrangements or agreements (the “**Agreement**”) which require the Business Associate to perform functions or activities on behalf of, or services for, Covered Entity or a Covered Entity Affiliate (“**CE Affiliate**”) that involve the use or disclosure of either (a) Protected Health Information (“**PHI**”) that is subject to the final federal Privacy, Security, Breach Notification and Enforcement Rules (collectively the “**HIPAA Rules**”) issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the Act including the HIPAA rules shall be referred to as “**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“**HITECH**”), or (b) health information relating to substance abuse and treatment (“**Part 2 PHI**”) protected under the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “**Part 2**”), as each is amended from time to time. The purpose of this BAA is to set forth the obligations of the Parties with respect to such PHI and Part 2 PHI; and

WHEREAS, Business Associate provides professional services for Covered Entity pursuant to a contract dated _____, 2023 and such other engagements as shall be entered into between the parties in the future in which Covered Entity discloses certain PHI or Part 2 PHI to Business Associate (collectively, the “**Master Contract**”); and

WHEREAS, Business Associate, in the course of providing services to Covered Entity, may have access to PHI and may be deemed a business associate for certain purposes under HIPAA; and

WHEREAS, Business Associate is also a Qualified Service Organization (“**QSO**”) under Part 2 and must agree to certain mandatory provisions regarding the use and disclosure Part 2 PHI; and

WHEREAS, the Parties contemplate that Business Associate may obtain PHI, with Covered Entity’s knowledge and consent, from certain other business associates of Covered Entity that may possess such PHI; and

WHEREAS, Business Associate and Covered Entity are entering into this BAA to set forth Business Associate’s obligations with respect to its handling of the PHI, whether such PHI was obtained from another business associate of Covered Entity or directly from Covered Entity.

NOW, THEREFORE, for mutual consideration, the sufficiency and delivery of which is acknowledged by the Parties, and upon the premises and covenants set forth herein, the Parties agree as follows:

1. Definitions. Unless otherwise defined herein, capitalized terms used in this BAA shall have the meanings ascribed to them in HIPAA or the Master Contract between Covered Entity and Business Associate, as applicable.

2. Obligations and Activities of Business Associate. To the extent that Business Associate is provided with or creates any PHI on behalf of Covered Entity and is acting as a business associate of Covered Entity, Business Associate agrees to comply with the provisions of HIPAA applicable to business associates, and in doing so, represents and warrants as follows:

- (a) Use or Disclosure.** Business Associate agrees to not use or disclose PHI other than as set forth in this BAA, the Master Contract, or as required by law.
- (b) Specific Use of Disclosure.** Except as otherwise limited by this BAA, Business Associate may:
 - (i)** use or disclose PHI to perform data aggregation and other services required under the Master Contract to assist Covered Entity in its operations, as long as such use or disclosure would not violate HIPAA if done by Covered Entity, or HIPAA permits such use or disclosure by a business associate;
 - (ii)** use or disclose PHI for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities, provided that with respect to disclosure of PHI, such disclosure is required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
 - (iii)** de-identify PHI and maintain such de-identified PHI indefinitely, notwithstanding Section 4 of this Contract, provided that all identifiers are destroyed or returned in accordance with the Privacy Rule.
- (c) Minimum Necessary.** Business Associate agrees to take reasonable efforts to limit requests for, or uses and disclosures of, PHI to the extent practical, a limited data set, otherwise to the minimum necessary to accomplish the intended request, use, or disclosure.
- (d) Safeguards.** Business Associate shall establish appropriate safeguards, consistent with HIPAA, that are reasonable and necessary to prevent any use or disclosure of PHI not expressly authorized by this BAA.

- (i) To the extent that Business Associate creates, receives, maintains, or transmits Electronic PHI, Business Associate agrees to establish administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Privacy Rule and Security Rule.
 - (ii) The safeguards established by Business Associate shall include securing PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity in accordance with the standards set forth in HITECH Act §13402(h) and any guidance issued thereunder.
 - (iii) Business Associate agrees to provide Covered Entity with such written documentation concerning safeguards as Covered Entity may reasonably request from time to time.
- (e) **Agents and Subcontractors.** Business Associate agrees to obtain written assurances that any agents, including subcontractors, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including the requirement that it agree to implement reasonable and appropriate safeguards to protect Electronic PHI that is disclosed to it by Business Associate. To the extent permitted by law, Business Associate shall be fully liable to Covered Entity for any and all acts, failures, or omissions of Business Associate's agents and subcontractors in any breach of their subcontracts or assurances to Business Associate as though they were Business Associate's own acts, failures, or omissions.
- (f) **Reporting.** Within five (5) business days of discovery by Business Associate, Business Associate agrees to notify Covered Entity in writing of any use or disclosure of, or Security Incident involving, PHI, including any Breach of Unsecured PHI, not provided for by this BAA or the Master Contract, of which Business Associate may become aware.
 - (i) In the notice provided to Covered Entity by Business Associate regarding unauthorized uses and/or disclosures of PHI, Business Associate shall describe the remedial or proposed mitigation efforts required under Section 2(g) of this BAA.
 - (ii) Specifically with respect to reporting a Breach of Unsecured PHI, Business Associate agrees to must include the identity of the individual(s) whose Unsecured PHI was Breached in the written notice provided to Covered Entity, and any additional information required by HIPAA.

- (iii) Business Associate agrees to cooperate with Covered Entity upon report of any such Breach so that Covered Entity may provide the individual(s) affected by such Breach with proper notice as required by HIPAA.
- (g) **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA, the Master Contract and the Piggyback Contract.
- (h) **Audits and Inspections.** Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI available to the Secretary, in a time and manner mutually agreed to by the Parties or designated by the Secretary, for purposes of the Secretary determining the Covered Entity's compliance with HIPAA.
- (i) **Accounting.** Business Associate agrees to document and report to Covered Entity, within fourteen (14) days, Business Associate's disclosures of PHI so Covered Entity can comply with its accounting of disclosure obligations in accordance with 45 C.F.R. §164.528 and any subsequent regulations issued thereunder. Business Associate agrees to maintain electronic records of all such disclosures for a minimum of six (6) calendar years.
- (j) **Designated Record Set.** While the Parties do not intend for Business Associate to maintain any PHI in a designated record set, to the extent that Business Associate does maintain any PHI in a designated record set, Business Associate agrees to make available to Covered Entity PHI within fourteen (14) days:

 - (i) for Covered Entity to comply with its access obligations in accordance with 45 C.F.R. §164.524 and any subsequent regulations issued thereunder; and
 - (ii) for amendment upon Covered Entity's request and incorporate any amendments to PHI as may be required for Covered Entity comply with its amendment obligations in accordance with 45 C.F.R. §164.526 and any subsequent guidance.
- (k) **HITECH Compliance Dates.** Business Associate agrees to comply with the HITECH Act provisions expressly addressed, or incorporated by reference, in this BAA as of the effective dates of applicability and enforcement established by the HITECH Act and any subsequent regulations issued thereunder.
- (l) **Part 2 QSO Compliance.**

 - (i) To the extent that in performing its services for or on behalf of Covered Entity, Business Associate uses, discloses, maintains, or transmits Part 2 PHI, Business Associate acknowledges and agrees that it is a QSO for the purpose of such federal law; acknowledges and agrees that in receiving, storing,

processing or otherwise dealing with any such patient records, it is fully bound by the Part 2 regulations; and, if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

- (ii) Notwithstanding any other language in this Agreement, Business Associate acknowledges and agrees that any patient information it receives from Covered Entity that is protected by Part 2 is subject to protections that may prohibit Business Associate from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.
- (iii) Business Associate acknowledges that any unauthorized disclosure of information under this section is a federal criminal offense.

3. Obligations of Covered Entity.

- (a) Covered Entity agrees to notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity agrees to notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, including disclosure of data to insurers and health plans when the patient pays for medical services in full and requests that such notification not be made, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (c) Covered Entity agrees to notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d) Covered Entity agrees to limit its use, disclosure, and requests of PHI under this BAA to a limited data set or, if needed by Covered Entity, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure, or request.

4. Term and Termination.

- (a) **Term.** This BAA shall become effective upon the Effective Date and, unless otherwise terminated as provided herein, shall have a term that shall run concurrently with that of the last expiration date or termination of the Master Contract and Piggyback Contract.

(b) Termination Upon Breach.

- (i) Without limiting the termination rights of the Parties pursuant to the Master Contract, upon either Party's knowledge of a material breach by the other Party to this BAA, the breaching Party shall notify the non-breaching Party of such breach and the breaching party shall have fourteen (14) days from the date of notification to the non-breaching party to cure such breach. In the event that such breach is not cured, or cure is infeasible, the non-breaching party shall have the right to immediately terminate this BAA and those portions of the Master Contract that involve the disclosure to Business Associate of PHI, or, if nonseverable, the Master Contract.

(c) Termination by Either Party. Either Party may terminate this BAA upon provision of thirty (30) days' prior written notice.

(d) Effect of Termination.

- (i) To the extent feasible, upon termination of this BAA or the Master Contract for any reason, Business Associate agrees, and shall cause any subcontractors or agents to return or destroy and retain no copies of all PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Business Associate agrees to complete such return or destruction as promptly as possible and verify in writing within thirty (30) days of the termination of this BAA to Covered Entity that such return or destruction has been completed.
- (ii) If not feasible, Business Associate agrees to provide Covered Entity notification of the conditions that make return or destruction of PHI not feasible. Upon notice to Covered Entity that return or destruction of PHI is not feasible, Business Associate agrees to extend the protections of this BAA to such PHI for as long as Business Associate maintains such PHI.
- (iii) Without limiting the foregoing, Business Associate may retain copies of PHI in its workpapers related to the services provided in the Master Contract to meet its professional obligations.

5. Miscellaneous.

(a) Regulatory References. A reference in this BAA to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.

(b) Amendment. The Parties acknowledge that the provisions of this BAA are designed to comply with HIPAA and agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA. Regardless of the execution of a formal amendment of this BAA, the BAA shall be deemed amended to permit the Covered Entity and Business Associate to comply with HIPAA.

- (c) **Method of Providing Notice.** Any notice required to be given pursuant to the terms and provisions of this BAA shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each Party at the addresses listed in the Piggyback Agreement to the Master Contract currently in effect between Covered Entity and Business Associate. Any such notice shall be deemed to have been given if mailed as provided herein, as of the date mailed.
- (d) **Parties Bound.** This BAA shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors, and assigns. Business Associate may not assign or subcontract the rights or obligations under this BAA without the express written consent of Covered Entity. Covered Entity may assign its rights and obligations under this BAA to any successor or affiliated entity.
- (e) **No Waiver.** No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
- (f) **Effect on Master Contract.** This BAA, together with the Master Contract and Piggyback Contract and attachments thereto, constitutes the complete agreement between the Parties and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this BAA and the terms of the Master Contract, the terms of this BAA shall control unless the terms of such Master Contract are stricter, as determined by Covered Entity, with respect to PHI and comply with HIPAA, or the Parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this BAA shall be binding on either party. No obligation on either party to enter into any transaction is to be implied from the execution or delivery of this BAA.
- (g) **Interpretation.** Any ambiguity in this BAA shall be resolved to permit the Covered Entity to comply with HIPAA and any subsequent guidance.
- (h) **No Third-Party Rights.** Except as stated herein, the terms of this BAA are not intended, nor should they be construed to grant, any rights, remedies, obligations, or liabilities whatsoever to parties other than Business Associate and Covered Entity and their respective successors or assigns.
- (i) **Applicable Law.** This BAA shall be governed under the laws of the State of Delaware, without regard to choice of law principles, and the Delaware courts shall have sole and exclusive jurisdiction over any dispute arising under this Agreement.
- (j) **Judicial and Administrative Proceedings.** In the event that Business Associate receives a subpoena, court or administrative order, or other discovery request or mandate for release of PHI, Business Associate agrees to collaborate with Covered Entity with respect to Business Associate's response to such request. Business

Associate shall notify Covered Entity within seven (7) days of receipt of such request or mandate.

(k) Transmitting Electronic PHI. Electronic PHI transmitted or otherwise transferred from between Covered Entity and Business Associate must be encrypted by a process that renders the Electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of HITECH Act § 13402 and any implementing guidance including, but not limited to, 42 C.F.R. § 164.402.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the Parties hereto have executed this BAA to be effective on the date set forth above.

BUSINESS ASSOCIATE:

IMAGETREND, INC.

BY: _____ (SEAL)

Print Name and Title

ATTEST: _____ (SEAL)

Print Name and Title

DATE: _____

COVERED ENTITY:

SUSSEX COUNTY, a political subdivision of the State of Delaware, by and through the SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

BY: _____ (SEAL)

Robert Murray, Director, Sussex County Emergency Medical Services

Witness

DATE: _____

PIGGYBACK AGREEMENT

Contract Details			
Master Contract Number ("Master Contract")	23-098	Piggyback Contract Number	00006774.0

This Piggyback Agreement (hereinafter referred to as this "Agreement" or "Piggyback") is binding as of the date executed by the last of the parties named below:

- BETWEEN:** **ImageTrend, Inc.**, a Minnesota corporation, with an address of 20855 Kensington Blvd., Lakeville, MD 55044 (hereinafter "ImageTrend")
- AND:** **Sussex County**, a political subdivision of the State of Delaware, by and through the Sussex County Emergency Medical Services, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 (hereinafter "Client")

The Client and ImageTrend mutually agree establish a contractual relationship between Sussex County, for the benefit of the Sussex County EMS Department, and ImageTrend, Inc. based on the terms first established between Delaware Health and Social Services Division of Public Health ("System Administrator") and ImageTrend.

Purpose. The purpose of this Piggyback is to procure the following items as outlined below in the Price Sheet attachment. The good delivery date or service period(s) will begin on the date of the last signature hereto ("the Effective Date").

Master Contract and Attachments Incorporated by Reference. The body of the Master Contract between the System Administrator and ImageTrend dated June 30, 2022 (Contract #3-098), is hereby incorporated by reference as the terms for this Piggyback, excluding Sections 2, 4 and 23, and Appendices A through I. The attachments and exhibits to this Agreement are incorporated herein by reference as though fully set forth and shall replace the exhibits and attachments of the Master Contract, for purposes of this Agreement. The attachments are: (1) Price Sheet and Work Order Attachment, (2) Software Licensing Terms Attachment, (3) Service Level Agreement Attachment, (4) Data Exchange Authorization Attachment, and (5) HIPAA Business Associate Agreement. Where the System Administrator's name appears in the Master Contract, for purposes of this Agreement, all instances are replaced with the Client's name as detailed in this Agreement. This Piggyback Agreement, together with each of the attachments and exhibits to this Agreement, and the incorporated body of the Master Contract as detailed in this section, form the complete Agreement between the Parties related to the topics herein.

Insurance. As a part of the contract requirements, ImageTrend must obtain at its own cost and expense and keep in force and effect during the term of this Agreement, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the Client. ImageTrend and all subcontractors must carry the following coverage depending on the type of service or product being delivered. ImageTrend shall require all subcontractors to maintain during the term of this agreement, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation and Employers' Liability insurance, in the same manner as specified for ImageTrend. ImageTrend shall furnish subcontractors certificates of insurance to the Client immediately upon request. The Client (including its elected and appointed officials, agents, and employees) is to be named

as an additional insured under the Commercial General and, if applicable, Umbrella or Excess Liability policy(ies), and the policy(ies) must be endorsed. Coverage afforded under this paragraph shall be primary and non-contributory as respects the Client, its elected and appointed officials, agents and employees.

a. Worker's Compensation and Employer's Liability Insurance in accordance with statutory benefits as required by Delaware law or the U.S. Longshoremen's and Harbor Workers' Compensation Act, or other laws as required by labor union agreements, or any other applicable Federal law, including standard Other States coverage; Employers' Liability coverage.

b. Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate on a primary and non-contributory basis.

c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:

1. \$1,000,000 combined single limit each accident, for bodily injury;
2. \$250,000 for property damage to others;
3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage;
4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 Del. C. § 2118; and
5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

ImageTrend must carry at least one of the following depending on the scope of work being performed.

- a. Medical/Professional Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- b. Technology Errors and Omissions - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate
- c. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate

Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the Client and the State. The certificate holder is as follows:

Sussex County
2 The Circle
P.O. Box 589
Georgetown, DE 19947

Delaware Department of Health and Social Services Division of Public Health

**417 Federal Street
Dover, DE 19901**

Nothing contained herein shall restrict or limit the ImageTrend's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that ImageTrend procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.

To the extent that Vendor has complied with the terms of this Agreement and has procured insurance coverage for all vehicles Leased and/or operated by Vendor as part of this Agreement, the State of Delaware's self-insured insurance program shall not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

System Administrator's Rights. To the degree this Piggyback Agreement is made with Client to use functionality or make decisions regarding the modification, disposition, operation, usage, or non-usage of goods or services originally procured for Client by System Administrator or other party to the Master Contract (e.g., System Administrator's ImageTrend provided software systems), Client's rights are subordinate to those of the parties to the Master Contract. To the degree Client's requests require modification or otherwise impact the parties to the Master Contract, Client must seek and obtain written permission from the affected parties in the Master Contract (i.e. System Administrator). Should System Administrator deny this permission, ImageTrend may rightfully withhold performance under this Agreement to the extent it is not permitted by System Administrator, or not permitted by law or regulation in ImageTrend's sole interpretation. Client is advised ImageTrend is a Business Associate and/or under data confidentiality provisions to the System Administrator and has duties under HIPAA and other data privacy laws which may not be waived or modified without System Administrator's written consent.

Out of Scope. Any service or good not described herein is out-of-scope. Out of Scope custom software development is \$225.00/hour and performed only under mutually agreed upon Statement of Work. Other goods and services are available via separate quote from ImageTrend.

IN WITNESS WHEREOF: the undersigned parties, each having authority to bind their respective organizations, hereby agree.

Client _____

ImageTrend _____

Signature: _____

Signature: _____

Print Name: Robert Murray _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PRICE SHEET AND WORK ORDER ATTACHMENT

The prices below are based on the following SaaS transaction volumes, as provided by Client:
 23,223 Incidents annually

Recurring Fees

Description	SKU	Unit Price	Qty	Extended Amount
FirstWatch Distribution	ELT.002.010.006	\$5,000.00	1	\$5,000.00

Total Recurring Fees: \$5,000.00

TOTAL YEAR 1: \$5,000.00

Send Invoices To:

Robert Mauch
 rmauch@sussexcountyde.gov
 22215 DuPont Boulevard, P.O. Box 589
 Georgetown, DE 19947

Payment Terms:

1. The term of the initial Agreement shall be from _____, 2023, through _____, 2024. The Agreement may be automatically renewed for two (2) additional one (1) year periods, unless otherwise terminated hereunder.
2. "Recurring Fees" are annual fees which recur each year. They are due on each anniversary of the fee, with the start date beginning upon completion as specified by the Milestone terms below. The Recurring Fees will escalate in price annually by 3% beginning on 04/12/2024 and each year thereafter for as long as this Agreement remains in effect.
3. ImageTrend may temporarily suspend performance (e.g., cease to provide access, hosting, support) due to Client's breach of contract provided Client shall have 30 days to cure such breach before ImageTrend may suspend performance.
4. ImageTrend may charge to Client a late fee of 1.5% per month, or the highest rate allowed under the law, whichever is lower, on any overdue amounts.
5. All Annual Software as a Service ("SaaS") Fees are based upon anticipated transaction volumes (as provided by Client) and are subject to an annual usage audit. ImageTrend reserves the right to increase fees in accordance with increased transaction volume per the Unit Price listed in the tables above. Any increase in fees based on the results of the annual usage audit shall be mutually agreed upon in writing and signed by the Parties in order to be legally binding. The fee increase shall be effective on the anniversary of this Agreement. Either party may terminate this Agreement upon thirty (30) days' written notice to the other party if the Parties are unable to mutually agree upon the Annual SaaS Fee increase based on the annual usage audit.
6. ImageTrend will not be responsible for third-party fees related to this Agreement unless specifically outlined by this Agreement.

MILESTONE 1

Contract Signature. This Contract Signature Milestone is complete when all parties to this Agreement have signed and executed this Agreement, regardless of whether any activity has occurred or any deliverable has been provided to Client by ImageTrend.

Description	Unit Price	Quantity	Extended Amount
FirstWatch Distribution	\$5,000.00	1	\$5,000.00
		Milestone 1 Total	\$5,000.00

SOFTWARE LICENSING TERMS ATTACHMENT

To the degree any Work Order involves licensing ImageTrend Software, the following terms shall apply:

“ImageTrend Elite Data Marts” means the relational database(s) that contain an enhanced and simplified reporting-ready format of the transactional data collected within ImageTrend Elite. The Elite Data Marts are available for use with the ImageTrend Elite Reporting Tools.

“ImageTrend Elite Reporting Tools” means the Transactional Report Writer, Visual Informatics, Analytical Chart Reporting Tool and Analytical Tabular Reporting Tool in the Software that are based on a set of Elite Data Marts.

“Incident(s)” means an instance where the Client sends a vehicle or emergency responder to a situation requiring emergency response, as measured by the number of incident reports within ImageTrend Software systems.

“Licensed Information” means other Deliverables provided to Client by ImageTrend relating to the operation or design of the Software, or other Deliverables provided to Client by ImageTrend which are common to ImageTrend (e.g., such Deliverables are not unique to Client). A copy of the software specification Licensed Information is available within the Software labeled as “ImageTrend University.”

“The Software” means the sum of all software licenses granted by this Agreement or Work Order hereto as provided in Section 1 below.

SECTION 1. GRANT OF LICENSE TO SOFTWARE.

Each Work Order for the sale of Software Licenses shall outline which of the below licenses are being granted by the Work Order. The license selection will be evidenced by the title of each SKU in the Work Order, e.g. “Elite EMS SaaS” shall be licensed under the Software as a Service License below. If the license is not apparent by the name of the SKU, then the license shall default to Software as a Service. ImageTrend may discontinue or replace a license in this table by providing Client with ninety (90) days’ written notice of the change. Replacing this table shall not have the effect of revoking previously agreed licenses, rather, ImageTrend’s right to replace this table shall apply to only future Work Orders.

Name of License	Terms of License
Software as a Service License (SaaS) or Integration as a Service (IaaS) (“SaaS”)	ImageTrend hereby grants Client a non-exclusive, non-transferable license to use the ImageTrend Software product(s) listed in the Work Order for such time as listed in said Work Order. During the term of the Work Order, the Client shall have access to the Software, which will be installed on servers at the ImageTrend hosting facility and subject to the Service Level Agreement attached. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers, and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.

ImageTrend Hosted License (“License”)	ImageTrend will grant Client a non-exclusive, non-transferable, perpetual use license without rights of resale or sublicensing, to the ImageTrend Software product(s) listed in the Work Order. Client shall have access to the Software, which will be installed on servers at the ImageTrend hosting facility and subject to the Service Level Agreement attached. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers, and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.
Client Hosted License (“On Premise License”)	<p>ImageTrend will grant Client a non-exclusive, non-transferable, perpetual use license without rights of resale or sublicensing, to the ImageTrend Software product(s) listed in the Work Order. Client shall have access to the Software, which will be installed on servers at the Client hosting facility and subject to the attached Service Level Agreement. All copies of the Software and/or Licensed Information in any form provided by ImageTrend to Client hereunder are the sole property of ImageTrend and/or its suppliers, and that Client shall not have any right, title, or interest to any such Software and/or Licensed Information or copies thereof except as provided in this Agreement.</p> <p>Initial set up will require direct access to Client servers by ImageTrend personnel. However, after the installation is complete, management of non- ImageTrend software, operating systems, ancillary systems and the responsibility for keeping non- ImageTrend software updated will be the sole responsibility of Client. ImageTrend disclaims any and all liability arising out of out-of-date or otherwise insufficiently maintained non- ImageTrend software or hosting environment. ImageTrend has no duty to maintain the Client’s hosted environment’s cybersecurity. Client agrees to ensure that ImageTrend will have sufficient server access to fulfill ImageTrend’s duties hereunder. Maintenance of Client Hardware, physical environment, storage, processing, patching, operating system maintenance, network device maintenance, Client 3rd party licenses (as outlined below), or any other task which is required to maintain the Client application hosting environment and is not directly arising out of a requirement of or defect to the ImageTrend application(s) are the sole responsibility of Client. It will not be ImageTrend’s responsibility to maintain or resolve problems with Client’s hosted environment. ImageTrend’s sole responsibility shall be to provide application support for ImageTrend developed applications. Tasks which are ultimately discovered to be maintenance of the Client Hosting environment may be charged to Client at ImageTrend’s out-of-scope rate of \$225 per hour. Any increases in ImageTrend’s out-of-scope rate shall be mutually agreed to by the Parties in writing.</p>

SECTION 2. PROTECTION OF SOFTWARE AND LICENSED INFORMATION

Client agrees to respect and not to, nor permit any third-party with which it has contracted and to which it has provided access to the software, to, remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on any of the Software or Licensed Information, and to reproduce and include the same on each authorized copy of the Software and Licensed Information.

Client shall not, nor shall Client permit any third-party under Client’s control to, copy, reverse engineer, or duplicate the Software or any part thereof except for the purposes of system backup, testing,

maintenance, or recovery. Client may duplicate the Licensed Information only for internal training, provided that all the names, trademark rights, product names, copyright statement, and other proprietary right statements of ImageTrend are reserved. ImageTrend reserves all rights which are not expressly granted to Client in this Agreement.

Client shall not, nor shall Client permit any third-party with which it has contracted and to which it has provided access to the software, to, modify, reverse engineer, disassemble, or decompile the Software, or any portion thereof, and shall not use the software or portion thereof for purposes other than as intended and provided for in this Agreement.

SECTION 3. IMAGETREND ELITE DATA MARTS NON-EXCLUSIVE USE LICENSE.

In accordance with the terms and conditions hereof, ImageTrend hereby grants the use of the ImageTrend Elite Data Marts only via ImageTrend Elite Reporting Tools, unless an “Elite Data Mart License” is included and detailed in a Work Order. Absent that license, this Agreement does not give the Customer the rights to access and query the ImageTrend Elite Data Marts directly using SQL query tools, reporting tools, ETL tools, or any other tools or mechanisms. Direct access to ImageTrend Elite Data Marts is only available via the aforementioned separately-priced product and service offering from ImageTrend.

SECTION 4. INSTALLATION, INTRODUCTORY TRAINING AND DEBUGGING.

IMPLEMENTATION. ImageTrend shall provide Client with start-up services such as the installation and introductory training relating to the Software, and, if necessary, initial debugging services known as “Implementation”. During Implementation, Client must make available sufficient time and resources as is necessary to accomplish the milestones and tasks per the party’s project plans (as applicable), typically between 4 and 15 hours a week. Depending on Client’s objectives, Client may need to allocate more time or resources to achieve Client’s desired timelines.

TRAIN THE TRAINER. ImageTrend may provide “Train-the-trainer” training for administrators as detailed in each Work Order. Additionally, online training videos and user guides in electronic format will be made available via ImageTrend University.

INSTRUCTIONS. ImageTrend will provide installation instructions and assistance for installation of the Software on the Servers appropriate to the License selection in the Work Order per the table above at (e.g., Client Hosted on premise license) as detailed in Service Level Attachment, below.

SOFTWARE SUPPORT. ImageTrend shall provide Software Support as detailed in the Service Level Attachment, below.

TRAINING USAGE AND EXPIRATION. The training line items and quantities as detailed in price table attached must be delivered within 2 years of the Effective Date. It shall be Client’s responsibility to request the training session(s). Training not used within the 2-year cut-off shall expire and no refund or credit will be payable to Client.

SECTION 5. SOFTWARE WARRANTIES.

PERFORMANCE WARRANTY. ImageTrend warrants that the Software will conform to the specifications as set forth in the Licensed Information, will be free from defects and will perform and function in the manner intended. However, this warranty shall be revoked in the event that any person other than ImageTrend and its agents make any unauthorized modification or change to the Software in any manner outside of the configuration available within the Software's built-in functionality. This warranty does not apply to data extracted from the system.

OWNERSHIP WARRANTY. ImageTrend represents that it is the owner of the entire right, title, and interests in and to the Software, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder to Client.

LIMITATIONS ON WARRANTY. All of ImageTrend's obligations under this Section shall be contingent on Client's use of the Software in accordance with this Agreement and in accordance with ImageTrend's instructions as provided by ImageTrend in the Licensed Information, and as such instructions may be amended, supplemented, or modified by ImageTrend from time to time. ImageTrend shall have no warranty obligations with respect to usage which does not conform with ImageTrend's instructions as provided by ImageTrend in the Licensed Information. ImageTrend shall have no warranty obligations with respect to any failures of the Software which are the result of accident, abuse, misapplication, extreme power surge or extreme electromagnetic field of a Client device. In addition to any other limitation on warranty or liability. Client's sole remedy for breach of warranty related to or arising out of the Software, or a defect with the Software, shall be at Client's option 1) repair of the Software or defect, or 2) termination of this Agreement for substantial failure of ImageTrend to fulfill its obligations as outlined in paragraphs 15.1 and 15.3 of the Master Contract.

SECTION 6. MAINTENANCE.

ImageTrend shall provide scheduled updates and new releases for the Software, as well as defect correction as needed per the Service Level Agreement, attached for so long as Client has contracted for support (as indicated by a recurring fee containing the product name and word 'Support'). Specific out-of-scope system enhancement requests are excluded from support. Should Client desire specific source-code level modifications to the system, Client may submit a request to ImageTrend's UserVoice page at <https://ImageTrend.uservoice.com/>.

SECTION 7. RETURN OF DATA.

Upon termination of this Agreement for any reason, Client may request ImageTrend provide to Client a copy of Client's data. ImageTrend will produce this data by first using relevant export functionality provided by the application, e.g., for ImageTrend Elite the data would be produced as a NEMESIS Version 3 XML file(s), or by other native data export format should the application provide no export functionality. ImageTrend may redact or remove ImageTrend trade secret and confidential information, such as database schema design details, or data which is used solely in an operational or administrative fashion (e.g., data which was never entered by Client end-users). For clarity, ImageTrend may not redact

or remove data that Client or Client’s end-users entered. ImageTrend will provide this exported data to Client via secure electronic transfer, such as SFTP/FTPS. ImageTrend shall have 90 days from Client’s request to produce the native data export for Client. Should Client desire the data to come in any alternative format, or be in any way different than as described in this section, Client must request those services from ImageTrend separately on a Time and Materials basis under its own time frame. ImageTrend will make efforts to accommodate Client’s request, but ImageTrend is under no obligation to do so. “Time and Materials Basis” means charges billable to the Client based upon each hour worked, multiplied by the hourly rate for the work, plus the cost of any Materials necessary (including but not limited to, the cost of third-party software licenses, travel and accommodation expenses, or otherwise), or Materials beneficial (conditioned upon mutual assent of the parties), billed on a monthly basis in arrears.

SECTION 8. IMAGETREND ELITE AUTHORIZED USERS AND SCOPE OF USAGE

This Grant of License is strictly conditioned on the Software being used by only Authorized Users. ImageTrend may audit Client’s Software, users, and usage to ensure compliance with the scope of usage detailed by this Agreement, in ImageTrend’s discretion. Non-compliance with the scope of usage shall be considered a material breach.

If this Agreement is for the licensing of ImageTrend Elite EMS, the following scope of usage and Authorized User definitions apply.

Organization Type	Organization Definition	Authorized User Definition
Private Agency	Client responds to emergency medical incidents for-profit or not-for-profit and the Client <u>is not</u> a Governmental Entity.	All employees & contractors of Client who respond to emergency medical incidents in the regular scope of their employment
Public Agency, County, Region, or City for its own employed EMS workers (“Public Agency”)	Client responds to emergency medical incidents and transports patients therefrom and <u>is</u> a Governmental Entity	All employees & contractors of Client who respond to emergency medical incidents in the regular scope of their employment
Hospital or Health Network	Client is a 1) hospital, 2) health network, 3) or other medical institution that provides care which does not involve responding to emergency medical incidents and transporting patients therefrom as a primary service of the organization; and Client is recognized and licensed as such by the Client’s governing State	All employees & contractors of Client who respond to emergency medical incidents in their regular scope of employment at or from the named Hospital brick-and-mortar locations. If the specific brick-and-mortar location(s) is not named in a Work Order, then it shall be interpreted as the brick-and-mortar location from which the Client primary contact, Robert Mauch or their successor, conducts their job duties most frequently.
State, County, Region, City for its constituents	Client is a Governmental Entity with authority or a official mandate to improve, facilitate, organize, surveil, investigate, report, collect reports of, or otherwise govern public health matters; or another entity acting under a grant or contract of and for equivalent authority	Licensed individuals within Client’s legal or governing jurisdiction and geographic boundary, who to respond to emergency medical incidents in the regular scope of their employment, and not individuals whose primary job duty involves law enforcement.

Group Purchase (Multi-Agency)	Client(s) are a plurality of Private Agencies and/or Public Agencies	All employees & contractors of each named organization, who respond to emergency medical incidents
Financing Party (e.g. billing company) on behalf of Agency/City/County third party beneficiary	Client is an entity which does not respond to emergency medical incidents or provide for the care or transportation of patients; rather Client is an entity who procures or pays for a third party beneficiary who is a Private or Public Agency.	All employees & contractors of third party beneficiary Public or Private Agency, who respond to emergency medical incidents in the regular scope of their employment.

SERVICE LEVEL AGREEMENT ATTACHMENT

ImageTrend is committed to offering exceptional levels of service to our customers. This Service Level Agreement (“SLA”) guarantees your website or application’s availability, reliability and performance. This SLA applies to any site or application hosted on our network.

1. Customer Support

ImageTrend is committed in providing an exceptional level of customer support. ImageTrend’s servers are monitored 24 hours per day, 7 days per week, 365 days per year and our support staff is available via phone (888.469.7789) and email (www.imagetrend.com/support) as posted on the company’s website. ImageTrend works to promptly resolve all issues reported by customers, and will acknowledge the disposition and potential resolution according to the chart below:

Severity Level	Example	Acknowledgement of Error Notice	Response Goal
High/Site Down	<ul style="list-style-type: none">- Complete shutdown or partial shutdown of one or more Software functions- Access to one or more Software functions not available- Major subset of Software application impacted that is necessary for usage of the software	Within one (1) hour of initial notification during business hours or via support.imagetrend.com	Six (6) hours
Medium	<ul style="list-style-type: none">- Minor subsystem failure-Data entry or access impaired on a limited basis.	Within four (4) hours of initial notification	24 Business hours
Low	<ul style="list-style-type: none">- User error (i.e. training) or forgotten passwords- Issue can or must be delegated to local Client contact as a first level of response for resolution	Same day or next business day of initial notification	As appropriate depending on nature of issue and party responsible for resolution

2. Data Ownership

All customer data collected and maintained by ImageTrend shall at all times remain the property of the customer.

3. Data Protection

ImageTrend takes data privacy and cybersecurity very seriously. ImageTrend utilizes compliant and industry recognized best practices to ensure data security, and does not use or make available any personally identifiable information to third parties without customer consent or as required by law. ImageTrend acknowledges that its handling of information on behalf of customers may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. ImageTrend agrees to comply with all of such laws, rules, regulations and restrictions at its sole cost and expense and, as further set forth in the Business Associate Agreement (“BAA”) between the Parties which is attached to the Piggyback Agreement and is incorporated herein by reference. Without limiting any remedies available to it, whether in

law or in equity, in the event of a data breach, Client may terminate this Agreement in accordance with the terms of the BAA.

4. Suspension of Service

ImageTrend reserves the right to suspend and limit network resources to customers failing to pay the monthly fee in advance at its own discretion. In the event of service suspension, full-service delivery will be restored within 24 hours from the date and time that payment is received.

5. Availability

ImageTrend is fully committed to providing quality service to all customers. To support this commitment, ImageTrend offers the following commitments related to application server Availability:

Availability Objective: ImageTrend will provide 99.5% Availability (as defined below) for the ImageTrend network services within ImageTrend's Immediate Control. For purposes, hereof, "Availability" or "Available" means the ImageTrend Services are available for access and use through the Internet.

"Immediate Control" includes ImageTrend's network services within the ImageTrend data center which extends to, includes and terminates at the Internet Service Provider ("ISP") circuit termination point on the router in ImageTrend's data center (*i.e.*, public Internet connectivity).

Specifically excluded from the definition of "Immediate Control" are the following:

- a. Equipment, data, materials, software, hardware, services and/or facilities provided by or on behalf of Client or a third-party entity (or any of their vendors or service providers) and Client's or a third-party entity's network services or end-user hardware.
- b. Acts or omissions of Client, their employees, contractors, agents or representatives, third party vendors or service providers or anyone gaining access to the ImageTrend Services at the request of Client.
- c. Issues arising from bugs, defects, or other problems in the software, firmware, or hardware of third parties.
- d. Delays or failures due to circumstances beyond ImageTrend's reasonable control that could not be avoided by its exercise of due care.
- e. Any outage, network unavailability or downtime outside the ImageTrend data center.

Availability Calculation: Availability is based on a monthly calculation. The calculation will be as follows: $((a - b) / a) \times 100$, where "a" is the total number of hours in a given calendar month, excluding Scheduled Maintenance (as defined below), and "b" is the total number of hours that service is not Available in a given month.

Offline Capability: The Software may have offline capability which provides redundancy when network or server back-end capability is not available. Periods of time when the Software's primary functions continue to function offline shall be excluded from the unavailability calculation "b" above.

Scheduled Maintenance: ImageTrend conducts scheduled maintenance, as necessary, every last Wednesday of the month. ImageTrend will perform scheduled maintenance within that maintenance window between the hours of 9:00 p.m. CST to 11:00 p.m. CST. ImageTrend may change the regularly scheduled maintenance window from time to time at ImageTrend's discretion upon reasonable notice to Client.

Service Disruption: Upon customer's written notice to ImageTrend, if Availability for the month is below the guaranteed level, ImageTrend will issue a credit to customer in accordance with the schedule below:

Availability: 99.0% - 99.5% = 5% of monthly hosting fee credited
95.0% - 98.99% = 10% of monthly hosting fee credited
90.0% - 94.99% = 15% of monthly hosting fee credited
89.99% or below = 2.5% for every 1% of lost Availability (in no event exceeding 50% of monthly hosting fees)

ImageTrend maintains precise and objective Availability metrics, which shall be determinative when calculating any customer requested credit. ImageTrend maintained Availability metrics shall only be requested in good faith to address material customer concerns. To receive a credit, customers must specifically request it during the month following the month for which the credit is requested. Credits shall not be issued if a customer account is past due, suspended or pending suspension.

6. General

ImageTrend reserves the right to change or modify this SLA and the related services being provided to benefit its customers, including changes to hosting environments and infrastructure, provided that any such improvements shall adhere to the regulatory guidelines and best practices referenced herein.

BUSINESS ASSOCIATE AGREEMENT ATTACHMENT

This Business Associate Agreement (“Agreement”) dated 04/12/2023 (the “Effective Date”), is entered into by and between **Sussex County** located at 22215 DuPont Boulevard, P.O. Box 589, Georgetown, DE 19947 (the “Covered Entity”) and ImageTrend, Inc., a Minnesota corporation (the “Business Associate”).

If to Covered Entity:

ATTN: Compliance Department
22215 DuPont Boulevard, P.O. Box 589
Georgetown, DE 19947

DATA EXCHANGE AUTHORIZATION

Between ImageTrend, Inc. (“ImageTrend”), a Minnesota Corporation located at 20855 Kensington Blvd., Lakeville, MD 55044 and Sussex County, by and through the Sussex County Emergency Medical Services (“the Data Controller” and “Client”), with an address of 22215 DuPont Boulevard, P.O. Box 589 Georgetown, DE 19947 for transmitting ePHI data as identified below

Whereas; ImageTrend is a provider of data management services and a current Business Associate to the Data Controller and;

Whereas; the Data Controller wishes ImageTrend to exchange certain ePHI data from and to the Data Controller’s System, in ImageTrend’s capacity as a Business Associate

Data Exchange Purpose The purpose of this Data Exchange Authorization is to exchange Data Controller’s data in accordance with the table below that lists the data exchange work items to be fulfilled by ImageTrend (“the Identified Data Exchanges”). It is Data Controllers sole obligation to ensure the “Destination” column is accurate. ImageTrend will fulfill and exchange data with the listed Destination party, and will not deviate from the identified destination unless ImageTrend is directed otherwise in writing by Data Controller. Notwithstanding any term to the contrary, ImageTrend shall not be liable in any manner for sending or receiving data as outlined below; Data Controller assumes all risk for the data source(s) and destination(s) identified below.

Description	Quote Description	Data Source	Data Destination
FirstWatch Distribution	One (1) NEMESIS 3.4.0 file per event is submitted to the FirstWatch web service based upon workflow defined during the implementation process. A client key needs to be provided to us by FirstWatch for the integration to be successful. A list of agencies to include in the integration should be included in the contract. No attachments will be included in this export. NOTE: Legacy Data Migration is not included, but is available for an additional cost.	ImageTrend at Lakeville, MN55044	FirstWatch

Authorization. Data Controller hereby authorizes ImageTrend to transmit, import, and/or disclose in accordance with the Identified Data Exchanges, and to transmit, import and/or disclose other data reasonably necessary to achieve the purpose of each work line item outlined in the table above. This Agreement modifies any prior agreements of the parties only to the extent necessary to effect this agreement, and does not otherwise change the terms of any prior agreements between the parties.

Right to Revoke or Terminate. Data Controller may terminate or revoke the right to transmit or disclose data granted to ImageTrend by this Agreement at any time by providing not less than 20 days’ written notice to ImageTrend and providing a commercially reasonable period of time in which to effect the termination.

The Parties hereby agree to this Data Exchange Authorization:

IN WITNESS WHEREOF: the undersigned parties, each having authority to bind their respective organizations, hereby agree.

Client

ImageTrend

Signature:

Signature:

Print Name:

Print Name:

Title:

Title:

Date:

Date:



Caring People, Quality Service

SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

22215 Dupont Blvd. • P.O. Box 589 • Georgetown, DE 19947 • 302-854-5050 • FAX 302-855-7780

Robert W. Murray

Director



TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable John L. Rieley, Vice President
The Honorable Cynthia C. Green
The Honorable Mark G. Schaeffer
The Honorable Douglas B. Hudson

FROM: Robert Murray, Director 

RE: Blood Bank of Delmarva – Health Care Provider Agreement

DATE: May 9, 2023

In 2020, Sussex County EMS began discussions with the end goal of bringing whole blood to the field. From the military battlefields to the highest performing EMS agencies across the world, early administration of whole blood has proven to save lives with every implementation. Research has proven that early administration in critically ill hemorrhaging patients improves survival.

After almost three years and countless hours, we can see the finish line and implementation is possible in just a few weeks. One final step is to seek your support through the approval of the Health Care Provider Agreement between the Blood Bank of Delmarva (BBD) and Sussex County (SC). That agreement has been finalized by both SC and BBD legal representatives. I have attached the agreement for your review.

Our plan is to place a single unit of O+ Low Titer, Whole Blood on each of our District Supervisor units. These supervisors would be dispatched to high acuity calls where the administration of blood is more likely to occur.

Getting this far is a testament to the unwavering support and “let’s do this” attitude of the Blood Bank of Delmarva. Blood Bank regulations are foreign to us, and they have spent a lot of time working with us and ensuring we were ready to go and that the program will be successful. Their commitment will continue. Not only will they provide the blood product to us, but they have agreed to handle all deliveries, saving us from traveling to Newark to restock. This program would not be possible without the Blood Bank of Delmarva and their leadership team.

Todd F. Lawson
Administrator



It is difficult to forecast annual utilization as there are many factors. With the cost of whole blood and our best forecast of utilization, we anticipate an annual cost of \$40-50,000.

The annual cost of this program does not go unnoticed. There is no doubt that this program will save lives. As one respected EMS leader put it, when the patient is literally bleeding to death whole blood will reset the clock. We will continue to look for ways to reduce costs through partnerships and remain hopeful that future opportunities present.

Sussex County EMS has a reputation of leading the way in pre-hospital advanced life support care, and with your continued support, whole blood can be added to the long list of life-saving procedures provided to the residents of, and visitors to, Sussex County.

We are requesting your support by approving this Health Care Provider Agreement between the Blood Bank of Delmarva and Sussex County.

Enclosure

- Proposed motion
- Health Care Provider Agreement (latest version)

Motion – Health Care Provider Agreement

Be it moved that Sussex County Council approve the Health Care Provider Agreement between The Blood Bank of Delmarva and Sussex County allowing Sussex County EMS to deliver whole blood to patients in the field.

HEALTH CARE PROVIDER AGREEMENT

This **Health Care Provider Agreement** ("**Agreement**") is made effective as of the date of the last signature below (the "Effective Date"), by the New York Blood Center, Inc. d/b/a Blood Bank of Delmarva, a New York not-for-profit corporation, with a place of business at 100 Hygeia Drive, Newark, DE 19713 ("**BBD**"), and Sussex County, a political subdivision of the State of Delaware, for the benefit of the Sussex County Emergency Medical Services Department ("**Customer**"), a corporation with a place of business at P.O. Box 589, Georgetown, DE 19947.

WHEREAS, BBD is a supplier of blood products and related services (to access BBD current licenses, permits and certificates, go to <https://www.delmarvablood.org/about-us/who-we-are/licenses-permits-certifications/>);

WHEREAS, Customer operates an advanced life support, county paramedic service pursuant to Title 16, Chapter 98 of Delaware Code and desires to obtain a safe, reliable and cost-effective supply of blood products and related services (as set forth in Section 2, below);

WHEREAS, BBD desires to supply such blood/blood products and related services; and

WHEREAS, this Agreement sets forth the terms and conditions covering Customer's purchase of blood products and related services from BBD.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, the parties agree as follows:

1. TERM OF AGREEMENT; TERMINATION

- 1.1 This Agreement shall commence on the Effective Date and shall continue until the third (3rd) anniversary thereof ("**Term**").
- 1.2 Either party may terminate this Agreement in the event of a material breach as follows: the party asserting such breach shall provide the other party with written notice of the breach with sufficient particularity to allow the other party an opportunity to cure the material breach. The party in material breach shall be allowed thirty (30) days from its receipt of written notice to cure such breach. If the material breach is not cured within such thirty (30) day time period, this Agreement will terminate with the same force and effect as if said date were the end of the Term hereunder.
- 1.3 Either party may terminate this Agreement immediately upon written notice to the other party in the event that the other party has lost any licensure or accreditation material to its ability to perform its obligations hereunder in accordance with applicable law.

2. PRODUCTS AND SERVICES PROVIDED

- 2.1 This Agreement specifies the terms and conditions that apply to each of the following products and services (each referred to as a "**Service**" or in the plural "**Services**").

Schedule(s)

A. Blood Products & Shipping/Handling

- 2.2 The general terms and conditions included in this Agreement shall apply to the entire Agreement, including its attachments. The specific terms and conditions applicable to each Service are set forth in the applicable Schedule, together with the applicable Fee Schedules.

3. HOURS OF SERVICE AND ORDERING PRODUCTS AND SERVICES

- 3.1 Customer may request blood products and Services on a **24-hour/7-day-a-week** basis as follows: via BBD's

web based ordering system or by contacting BBD's Hospital Services at **(302) 737-7001**. Each Party shall use its commercially reasonable efforts to: (i) regularly communicate with the other Party; and (ii) update and maintain such Party's appropriate contact information set forth in Section 11.

4. FEES

- 4.1 The fees for each blood product or Services covered by this Agreement are set forth after the applicable Schedules.
- 4.2 The fees set forth in the Fee Schedule, Blood Products, Schedule A-1 shall remain fixed through the first anniversary of the Effective Date. On the second and third anniversaries of the Effective Date, BBD may increase the fees set forth in this Fee Schedule by no more than the greater of (a) 5% or (b) the current Consumer Price Index (CPI-U). Notwithstanding the foregoing, should the FDA mandate or license new testing for blood and blood products, or human cells, tissues, and cellular and tissue-based products (HCT/P), or such test becomes standard industry practice, BBD reserves the right to reasonably adjust prices to reflect actual incremental costs to BBD of such testing. BBD shall provide Customer with thirty (30) days' written notice of any price adjustment pursuant to this Section 4.2. All cost increases over the annual increase of the greater of (a) 5% or (b) the current Consumer Price Index (CPI-U) shall be subject to Customer's prior written approval. In the event Customer does not approve such increase, either party may terminate this Agreement by providing the other party with written notice thereof.

5. PAYMENT/CREDIT TERMS

- 5.1 BBD shall invoice Customer on a weekly basis.
- 5.2 Customer shall pay all undisputed invoices within thirty (30) days of the invoice date. If an invoice is not paid in full within forty-five (45) days of the invoice date, the following terms shall apply:
 - 5.1.1 Interest shall accrue on undisputed amounts at the rate of 1.5% monthly; and
 - 5.1.2 Customer shall pay cash on delivery prior to receiving any new blood products or Services in an amount that is the sum of (i) the price set forth in the Fee Schedule for such blood products or Services; (ii) three times the amount owed in (i) (as a payment against outstanding invoices and not as a penalty), including any accrued interest on the outstanding balance but not to exceed the total amount owed to BBD, and (iii) all applicable transportation costs (even if Customer receives transportation at no separate charge).

6. COMPLIANCE WITH LAWS

- 6.1 Each of the parties represents and warrants that, to the best of its knowledge and understanding, all obligations pertaining to and benefits derived under this Agreement are in compliance with all applicable Federal, State, laws, rules and regulations as they exist now, and as they may be amended from time to time, including but not limited to (i) the federal Food, Drug and Cosmetic Act or the Public Health Service Act; (ii) applicable laws and regulations promulgated by applicable state Departments of Health and (iii) all applicable rules, regulations and standards promulgated by the National EMS Education Standards and the Delaware Advanced Life Support Protocols, Guidelines, Policies and Standing Orders: Hemodynamically Compromising Hemorrhage or other accrediting authority applicable to paramedic services (collectively, "**Applicable Laws**"). Each Party covenants and agrees to maintain compliance with all Applicable Laws as presently existing and as hereafter amended throughout the Term (or any Renewal Term) of this Agreement.

- 6.2 The above compliance obligations include, without limitation, the obligation of each party to ensure confidential treatment of personally identifiable donor and patient information, and extends specifically to HIV-related information, under applicable, state or federal law ("**Personally Identifiable Information**" or "**PII**") and may constitute "protected health information" or "PHI," as those terms are defined in the federal Health Insurance Portability and Accountability Act ("HIPAA"), as applicable. Neither party shall use or release such PII and PHI to third parties except as permitted or required by law. The parties agree to take such additional steps and/or to negotiate in good faith such amendments to this Agreement, as may be necessary to ensure that each party is and at all times remains in compliance with all applicable federal, state and local laws, rules and regulations governing PII and PHI. The parties shall take all measures as required by applicable state and federal law, in addition to any additional reasonable measures negotiated in good faith, to prevent unauthorized access to the PII and PHI by establishing and enforcing administrative, physical and technical safeguards, and shall limit the PII and PHI to only that information absolutely necessary for the administration of services covered under this Agreement.
- 6.3 Each party agrees to comply with all applicable local, state and federal laws that prohibit discrimination based upon gender, religion, race, creed, color, national origin, ancestry, veteran's status, sex, sexual orientation, marital status, age, handicap, disability or other protected category.
- 6.4 Each party represents to the other that it (A) is not currently, nor has ever been, excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in **42 U.S.C. § 1320a-7b(f)** (the "**Federal Healthcare Programs**") or any state healthcare programs; and (B) has never been convicted of a criminal offense related to the provision of healthcare items and services.
- 6.5 To the extent required by applicable law, BBD shall upon request, make available to any federal, state, or local governmental agency, at reasonable times during normal business hours, copies of this Agreement, and all books, documents, and records ("**Records**") necessary to certify the nature and extent of costs for Services provided under this Agreement, and shall maintain such Records for such length of time as is required by law.

7. REPORTING AND COOPERATION

- 7.1 Customer shall promptly notify BBD if Customer reasonably suspects that any patient who receives a transfusion with a blood product provided pursuant to this Blood Agreement (i) has experienced a transfusion reaction that is suspected to be related to an attribute of a donor or a unit, or (ii) may have been infected with a transfusion transmissible disease ("**Transfusion Event**").
- 7.2 Customer shall report unexpected reactions and incidents to the receiving hospital blood bank and, if applicable, the transferring hospital blood bank. Customer shall also give pertinent records (e.g. blood transfusion records, empty blood transfusion product bags and blood bank specimens (if any) to the receiving hospitals staff for delivery to the hospital blood bank.
- 7.3 Customer shall establish procedures for paramedics to contact Customer's designated medical directors as soon as possible if any signs/symptoms suggestive of a transfusion reaction occur and provide details to the receiving physician and in the electronic prehospital care report.
- 7.4 Each party shall cooperate, to the extent required by applicable law, in any inspection or investigation of the other party by a federal, state, or local governmental agency or an accrediting agency, relating to the performance of this Agreement or a Transfusion Event. Customer shall supply BBD with copies of any reports made to federal or state regulatory agencies relating to such investigation. Each party shall provide the other with prompt access to books, documents and records required to be provided under this Agreement or by applicable law.
- 7.5 Each party shall promptly report any deviation, errors, incidents or adverse reactions ("**Deviations**") that might affect the safety, potency or purity of the products provided under this Agreement and/or for which Services are performed pursuant to this Agreement. Each party shall cooperate with the other party in timely resolution of such Deviations.
- 7.6 Customer shall communicate to the receiving hospital all notifications from BBD regarding Lookbacks (see

Section 4 of Schedule A) and potentially non-conforming products.

7.7 BBD may conduct audits of the transfusion services policies/procedures, practices and records of Customer for federal, state, and local regulatory or standards compliance.

8. "SAFE HARBOR" PROTECTION

8.1 With respect to all discounts (if any), each party agrees that it shall diligently perform all steps necessary to qualify such discounts for "safe harbor" protection under the federal Medicare/Medicaid anti-kickback statute (42 USC 1320a-7(b)) and controlling regulations, including amendments thereto. Without limiting the generality of the foregoing, (a) BBD shall provide accurate and complete information to Customer on the purchase price of the goods, including any discounts and rebates, so that Customer may fulfill such obligations; and (b) Customer agrees that it shall (i) fully and accurately report the value of all discounts hereby granted by BBD in the applicable reports Customer submits to government agencies, (ii) claim the benefit of discounts/rebates in the same fiscal year as such discounts/rebates are earned or in the following fiscal year, and (iii) make available upon request to the appropriate government agencies, copies of all BBD invoices, coupons, or statements reporting such discounts/rebates. Neither BBD nor Customer shall engage in any activity prohibited by anti-kickback, anti-self-referral, or any other federal, state or local law or regulation which relate to health care and/or the performance of services under this Agreement, as those regulations now exist or as subsequently amended, renumbered or revised.

9. RELEASE OF INFORMATION

9.1 For public information purposes, Customer agrees to permit BBD to use Customer's name as a customer of products and Services.

10. NOTICES

10.1 Notices provided under this Agreement shall be in writing and shall be sent by U.S. mail to Blood Bank of Delmarva, Inc., 100 Hygeia Drive, Newark, DE 19713, or by telefax (302) 737-8233, Attention: Vice President of Blood Bank of Delmarva, with a copy to New York Blood Center, Inc. Attn: General Counsel, 310 East 67th Street, New York, NY 10065; and to Customer at address in the first paragraph of the agreement, Attention: Robert Murray, Sussex County EMS Director.

11. CONTACT INFORMATION

Please provide relevant Customer contact information as indicated:

<u>Contract Performance</u>	<u>Financial and Payment Matters</u>
Name: Robert Murray	Name: Lynn Kleb
Title: EMS Director	Title: EMS Office Manager
Address: P.O. Box 589, Georgetown, DE 19947	Address: P.O. Box 589, Georgetown, DE 19947
Telephone: (302) 854-5050	Telephone: (302) 854-5050
Email: rmurray@sussexcountyde.gov	Email: lkleb@sussexcountyde.gov

12. ENTIRE AGREEMENT

12.1 This Agreement, together with the incorporated Schedules and Fee Schedules, represents the full understanding and agreement of the parties regarding the subject matter and supersedes any prior agreements between the parties on this subject.

13. ASSIGNMENT

13.1 Neither this Agreement nor any obligation under it may be assigned by either party without the prior written consent of the other party, except that this Agreement may be assigned by a party to any affiliate, or to any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of its assets or to which exercise substantial control over the assigning party.

14. CHOICE OF LAW; VENUE

14.1 This Agreement shall be construed and the rights of the parties governed in accordance with the laws of the State of Delaware, excluding its conflict of laws and any dispute arising under this Agreement shall be heard exclusively in the state or federal courts located in New Castle County, Delaware.

15. FORCE MAJEURE

15.1 BBD shall use all reasonable efforts to provide products and Services requested by Customer; however, BBD shall not be liable for nonperformance or delay caused by a shortage of supply of raw materials, labor shortage, labor strike, interference with processing, manufacturing, or delivery, acts of regulatory agencies, public health emergencies, man-made or natural disasters, pandemic, acts of terrorism, public utility interruptions, discontinuance of necessary products or unavailability of a Service, but only to the extent that such shortages, problems, acts, discontinuances, or unavailabilities were beyond BBD's reasonable control. If such uncontrollable shortages, problems, acts, discontinuances or unavailabilities cause nonperformance or delay of BBD's obligations for a period of fifteen (15) days or more, then Customer may terminate this Agreement, and/or any of its Schedules, effective immediately upon BBD's receipt of Customer's written notice of termination.

16. NO WAIVER

16.1 Failure by either party to enforce any term or condition of this Agreement shall not be construed as a waiver of such term or condition.

17. INDEPENDENT CONTRACTOR

17.1 The parties agree and acknowledge that in performing services pursuant to this Agreement, BBD and its personnel are acting in the role of independent contractor and not as an employee, agent, partner of, or joint venture with Customer.

18. CONFIDENTIAL INFORMATION

18.1 In performing the obligations under this Agreement BBD and Customer may come into contact with, be given access to, and, in some instances, contribute to each other's Confidential Information. In consideration of permitting BBD and Customer to have access to each other's Confidential Information, during the term of this Agreement, BBD and Customer agree that they will not disclose to any third party any Confidential Information of the other Party without the other Party's prior written consent. BBD and Customer shall only make the Confidential Information of the other Party available to its employees, auditors, attorneys or other professionals or consultants hired by such party in the ordinary course, on a need-to-know basis (that is, their duties, requirements or contract for services require such disclosure), and agree to take appropriate action by instruction or agreement with such individuals permitted access to the Confidential Information to satisfy the obligations under this Section.

- 18.2 For purposes of this Section and subject to Section 18.4 below, "Confidential Information" shall mean any and all proprietary information, Customer lists, the terms and conditions of this Agreement, including any and all pricing terms, employee or patient information, Customer trade secrets, know-how, processes, documentation and all other information without limitation which is not generally known to, or readily ascertainable by proper means, by the public or which might reasonably be considered confidential, secret, sensitive, proprietary or private to either BBD or Customer.
- 18.3 The provisions of this Section will not apply to information (i) developed by the receiving party without the use of or access to the disclosing party's Confidential Information; (ii) that is or becomes publicly known without a breach of this Agreement; (iii) disclosed to the receiving party by a third party not required to maintain its confidentiality; or (iv) that is already known to the receiving party at the time of disclosure.
- 18.4 If any law, governmental authority or legal process requires the disclosure of Confidential Information, the recipient party may disclose the Confidential Information, provided, that, it provides reasonable notice to the disclosing party of such request for disclosure sufficient to allow the disclosing party to raise any objections or pursue legal means of preventing disclosure. The parties agree and acknowledge that this Agreement may be subject to the approval of and/or discussion with the Sussex County Council and will be subject to disclosure in a public forum through that process. The parties further acknowledge that the Customer is a governmental entity that is subject to the Freedom of Information Act laws (29 Del. C. § 10001, et. seq., as may be hereafter amended), and this Agreement and any documents associated therewith may be subject to disclosure pursuant to the Customer's interpretation of those laws in its sole discretion.

19. LIMITED WARRANTY

- 19.1 BBD represents and warrants that it shall perform the Services (including the collection, processing and distribution of blood products) set forth in this Agreement in accordance with the laws and regulations of the United States Food and Drug Administration, AABB standards and state and local laws, as applicable. NEITHER PARTY SHALL BE LIABLE AND BOTH PARTIES WAIVE ALL CLAIMS AGAINST THE OTHER PARTY, FOR CLAIMS OF PROSPECTIVE LOST PROFITS OR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER BASED UPON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. OTHER THAN AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, BBD MAKES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT.

20. INSURANCE

BBD shall, at its own expense, purchase and keep in force throughout the term of this Agreement with insurers in good standing and possessing an A.M. Best Rating of not less than "A-", and if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency:

- 20.1 Workers' Compensation coverage and disability coverage required by applicable state law and employers' liability coverage with minimum limits of \$1 million each accident for bodily injury by accident, \$1 million each employee for bodily injury by disease and \$1 million policy limit bodily injury by disease;
- 20.2 Commercial General Liability (CGL) with limits of insurance of not less than One Million Dollars (\$1,000,000) each occurrence and Three Million Dollars (\$3,000,000) annually in the aggregate, including Products - completed operations. CGL shall apply as primary and non-contributing. The Customer and its elected or appointed officials, officers, directors, employees, agents and consultants shall be additional insureds on this insurance, on a primary and non-contributory basis, with respect to liability arising out of or in connection with this Agreement.
- 20.3 Commercial Automobile Liability, including all owned, non-owned and hired vehicles with a minimum limit of

One Million Dollars (\$1,000,000) combined single limit of liability for Bodily Injury and Property damage; and

- 20.4 Medical Professional Liability coverage written on a claims-made basis in minimum amounts of One Million Dollars (\$1,000,000) each claim and Three Million Dollars (\$3,000,000) in the aggregate. If any liability insurance purchased by BBD is issued on a "claims made" basis, it must either: (1) Agree to provide certificates of insurance to the Customer evidencing the above coverages for a period of two years after termination of services (the certificates shall evidence a retroactive date no later than the date of this Agreement; or (2) Purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force when this Agreement is terminated and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance and a copy of the endorsement itself. The certificate and copy of the endorsement shall evidence a retroactive date no later than the date of this Agreement.
- 20.5 The limits of insurance above may be satisfied with a combination of primary and excess insurance.
- 20.6 Any insurance policies shall permit waivers of subrogation by endorsement or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first written above. To the extent that this agreement is executed electronically, the parties agree and consent to the use of electronic signatures and such electronic signature shall be deemed to have the same full force and binding effect as a handwritten signature.

SUSSEX COUNTY EMERGENCY MEDICAL SERVICES

NEW YORK BLOOD CENTER, INC. d/b/a BLOOD BANK OF DELMARVA

By:	By:
Name: Michael H. Vincent	Name:
Title: President, Sussex County Council	Title:
Date:	Date:

SCHEDULE A
BLOOD AND BLOOD PRODUCTS

1. PURCHASE OF BLOOD PRODUCTS

- 1.1 **Purchase Commitment By Customer.** Customer agrees to purchase at least 100% of its blood products from BBD if BBD is able to provide blood products at the time Customer contacts BBD to place an order. BBD understands and agrees that Customer shall be permitted to purchase blood products from another vendor if BBD is unable to provide the requested blood products at the time of order.
- 1.2 **Fees.** Customer shall reimburse BBD for all blood/blood products purchased in accordance with the Blood and Blood Products Fee Schedule. Customer shall have on file with BBD a current purchase order of sufficient amount to cover estimated annualized purchases of the products and services ordered under this Schedule.
- 1.3 **Ordering.** Customer may order blood products via BBD's BloodHub application, a web based ordering system. To register, please contact the BBD Hospital Services Main number at (302) 737-7001. In those cases where BloodHub is unavailable, or Customer requires assistance or clarification with orders or returns, Customer may contact BBD Hospital Services at the number listed above.

2. CONTRACTUAL AGREEMENT/ PLANNED BLOOD DELIVERY SCHEDULE

- 2.1 Subject to BBD's schedule, BBD agrees to provide Customer with transportation for supplemental and emergency orders for a fee (as defined in the Blood and Blood Products Fee Schedule).
- 2.2 **Blood Donation.** Upon BBD's request, but no greater than once per quarter, Customer will make reasonable efforts to cooperate with and assist BBD in the recruitment of voluntary blood donors and the importance of blood donation in community public health., e.g., such as hosting blood drives, assisting in the location of venues for and promoting BBD events, etc.

3. RETURN OF BLOOD PRODUCTS

- 3.1 Customer may return products not satisfying Customer's inspection upon receipt for full credit, provided that Customer notifies BBD within 24 hours of Customer's discovery of the non-conformance. Reasons for return include the following:
- 3.1.1 Missing/illegible expiration date
 - 3.1.2 Unit Number, ABO, Rh, and/or expiration date differing from packing slip
 - 3.1.3 Inadequate/no segments
 - 3.1.4 Frayed, torn, dirty label
 - 3.1.5 Other label discrepancies
 - 3.1.6 Exterior appearance
 - 3.1.7 Hemolyzed Unit/Segment; notice must be made within 72 hours of receipt
 - 3.1.8 Other evidence of non-conformance with applicable regulatory standards

4. LOOKBACK REQUIREMENTS

- 4.1 BBD is responsible for the following Lookback requirements:
- 4.1.1 BBD shall perform its Lookback responsibilities in compliance with applicable provisions of law, including, specifically, pertinent provisions of federal law codified in regulations at **21 CFR §610.46 - 610.47** and **42 CFR §482.27(c)**. **"Lookback"** is the process of tracing products from donors

who subsequently test positive for an infectious disease marker (*e.g.*, HIV, HBV, HCV, HTLV) or report a CJD/vCJD risk.

4.1.2 For the purposes of fulfilling BBD's obligations under this section, BBD shall contact Customer at Sussex County EMS, Manager of Quality and Standards at(302) 854-5050.

4.2 Customer is responsible for the following Lookback requirements:

4.2.1 **Quarantine.** In accordance with FDA regulatory Guidance, Customer shall determine the disposition of and either (a) discard or (b) quarantine all potentially Infectious blood products in inventory. Customer is responsible for returning products to BBD for discard/credit or releasing any units held in quarantine.

4.2.2 **Notification.** If units have been transfused, Customer shall notify the receiving hospital in accordance with all applicable laws and the standards set forth by BBD.

4.2.3 **Physician/Patient Notification.** Customer shall take all steps necessary to comply with FDA regulations for timely physician and patient notification set forth in **42 CFR 482.27(b)(4) - (c)(2)**.

4.2.4 **Customer Responsibility.** If Customer contracts with a third party for performance of notification, testing and counseling, Customer remains responsible for ensuring that notification and referral of patients is completed.

5. CUSTOMER RESPONSIBILITIES

5.1 Customer will have and maintain appropriate licensure to perform transfusion services pursuant to Delaware Division of Professional Regulation.

5.2 Customer will ensure that paramedics who will be authorized to administer blood components have received training regarding proper transfusion practices and procedures, according to a curriculum outlined in the National EMS Education Standards and approved by approved by the State of Delaware Office of Emergency Medical Services, State EMS Medical Director, and County Medical Directors, including but not limited to:

- a. verification of patient and unit information with hospital staff, prior to departure;
- b. verification of patient and unit information immediately prior to transfusion;
- c. proper handling and storage;
- d. use of filters;
- e. use of isotonic saline;
- f. blood administration procedures; and
- g. the recognition, assessment, reporting and management of adverse reactions.

5.3 Customer will be responsible for obtaining patient consent.

5.4 Customer will maintain an inventory of normal saline and medications, equipment and supplies necessary for the management of adverse blood transfusion reactions.

- 5.5 Customer will establish procedures for Customer personnel to contact Customer's on-call supervisor and administrator as soon as possible if any signs/symptoms suggestive of a transfusion reaction occur and provide details to the receiving physician and in the electronic prehospital care report.
- 5.6 Customer will administer blood component(s), as ordered, following established procedures and protocols.
- 5.7 Customer shall maintain all permits necessary to provide transfusion services pursuant to this Agreement, including transfusion of blood products to patients and ensure that patients receiving a transfusion shall meet all applicable criteria for out-of-hospital transfusions, including the criteria set forth in Delaware Paramedic Protocols: Hemodynamically Compromising Hemorrhage.
- 5.8 In administering blood products, Customer shall be solely responsible for determining whether or not to transfuse and/or suspend transfusion.
- 5.9 Completing all patient charts and records pertaining to Customer's responsibility pursuant to this Agreement, as well as Customer's protocols and standard operating procedures.
- 5.10 Maintaining records of patient medical history, in accordance with applicable laws, regulations and guidelines.
- 5.11 Report unexpected reactions and incidents to the receiving hospital blood bank and the transferring hospital blood bank.
- 5.12 Discard empty blood bags and used administration sets as medical waste in accordance with protocol. In the event of an adverse transfusion reaction, administration sets and the transfusion blood product will be given to the receiving hospital blood bank.
- 5.13 Give pertinent records (e.g., manifest and blood transfusion record, empty blood transfusion product bags, and blood specimens (if any) to the receiving hospital's staff for delivery to the blood bank.
- 5.14 Perform quality improvement and utilization review with Customer's medical director and BBD, no less than annually.
- 5.15 Customer will purchase the containers for transporting blood products. BBD will approve the validation protocol and assist in the validation process prior to use.
- 5.16 Receiving hospital will conduct post-transfusion compatibility testing as the compatibility testing laboratory of record.

6. CONFIDENTIALITY AND RECORDKEEPING

Each party shall establish and comply with applicable laws and regulations for notification, documentation and recordkeeping with regard to blood and blood products, including, without limit, requirements for ensuring confidentiality and maintaining and managing medical records. [For BBD, see 21 CFR 606.100 and 21 CFR 606.160; for Customer, see Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule and Title 16 Health and Social Services Delaware Administrative Code.] Sussex County EMS follows the Delaware Local Government General Records Retention Schedule in accordance with the Delaware Public Archives compliance schedule based on 29 Delaware Code, Chapter 5 (Delaware Public Records Law).

7. TRANSFER

- 7.1 All products provided to Customer pursuant to this Agreement are intended for Customer's own use. Should Customer transfer blood products supplied pursuant to this Agreement to any other entity or permit them to be used by anyone other than Customer, its employees, or authorized personnel, Customer shall indemnify, hold harmless and defend BBD against all claims and suits by third parties for any damages or liability that may arise from the sale, transfer or use of such blood product.

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE

sussexcountyde.gov

HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

Proposed Warrington Farm Expansion of the Sussex County Unified Sanitary Sewer District

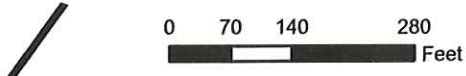
PERMISSION TO POST FACT SHEET

- Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area)
- The Engineering Department has received a request from Davis, Bowen & Friedel, Inc. on behalf of their client J.G. Townsend Jr. & Co. the owners/developers of parcel 334-12.00-123.01 off Old Landing Road.
- The project is a by-right subdivision.
- The project will be responsible for System Connection Charges of \$6,600.00 per EDU based on current rates.
- The Engineering Department would like to request permission to prepare and post notices for a Public Hearing on the annexation of the area.
- A tentative Public Hearing is currently scheduled for June 27, 2023 at the regular County Council meeting.

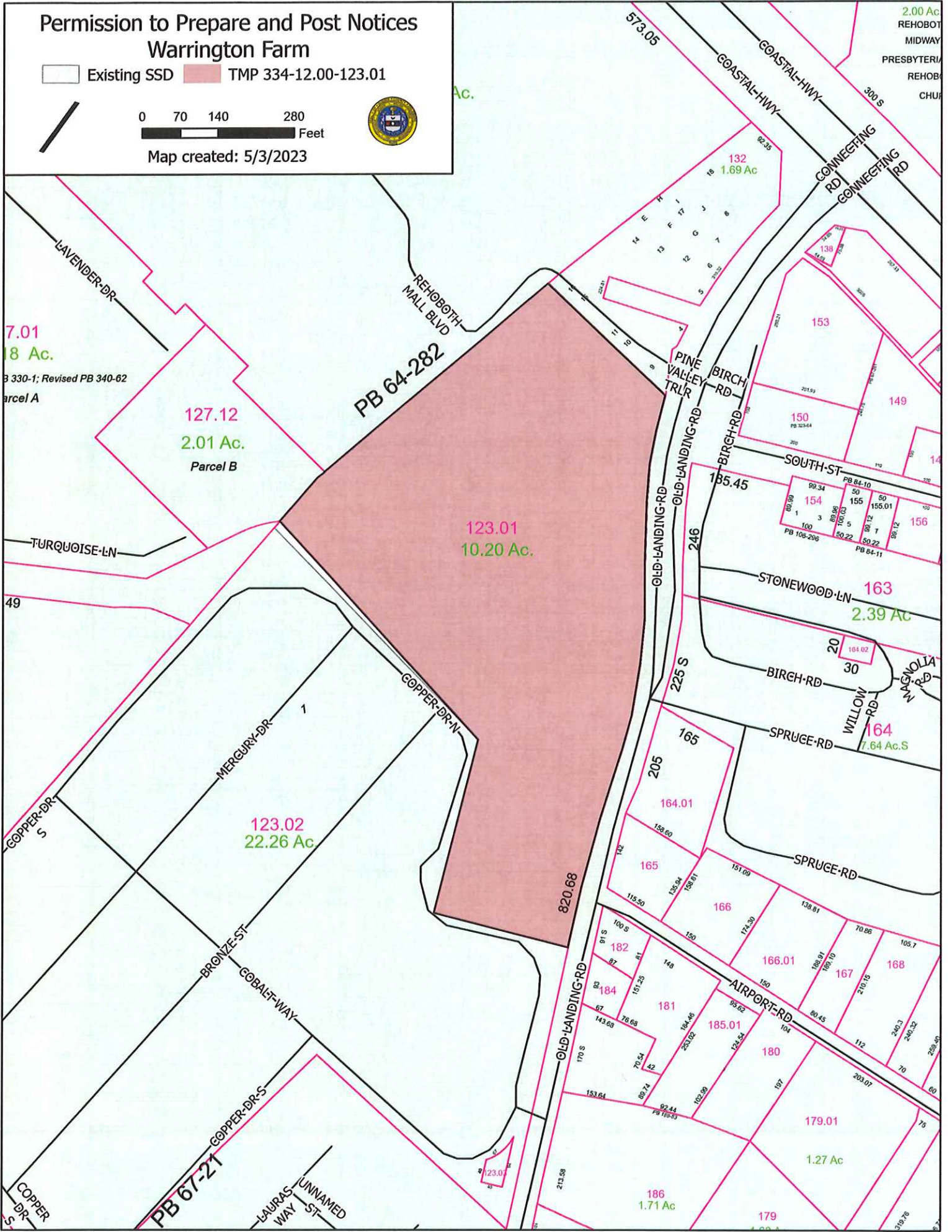


Permission to Prepare and Post Notices Warrington Farm

Existing SSD TMP 334-12.00-123.01



Map created: 5/3/2023



JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: May 4, 2023

RE: County Council Old Business Report for Ord. 22-07 relating to the Future Land Use Map Element of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01

The Planning and Zoning Department received an application (Ord 22-07 filed on behalf of Leeward Chase DE, LLC) requesting an amendment to the Future Land Use Map element of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01. The property is located at 22242 Lewes Georgetown Highway, Georgetown. The parcel size is 50.80 acres +/-.

The requested change is to change the area designation of the parcel from the Commercial Area to the Developing Area. On September 20, 2022, an Ordinance was introduced by the County Council to consider a potential amendment of the Comprehensive Plan.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the Ordinance for 8 reasons as outlined within the motion (copied below). The County Council held a Public Hearing on both C/U 2369 and Ord. No. 22-07 on February 28, 2023. At the conclusion of the meeting, the Council deferred action on application Ord. 22-07, holding the record open to receive PLUS comments from the State of Delaware. Below is a link to the minutes of the meeting of February 28, 2023. PLUS comments were received on April 20, 2023.

[Link to the Minutes of the County Council Meeting of February 28, 2023](#)

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 23, 2023.



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

Ord. 22-07

An Ordinance to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that the Ordinance request was to amend the area designation on the Future Land Use Map from the Commercial Area to the Developing Area. Mr. Whitehouse advised the Commission that submitted into the record were the Application form, an Exhibit Map, a copy of the Ordinance introduced by the County Council on January 3, 2023, and a copy of the Applicant's statement made to PLUS. Mr. Whitehouse advised the Commission that no PLUS comments had been received regarding the Ordinance and the Ordinance is required to go through the new PLUS process.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, the State's PLUS comments, the Applicant's response to the State's PLUS comments, a letter received from the Federal Aviation Administration, a letter received from Tidewater Utilities, Inc., and the Applicant's Assessment of Environmental Conditions.

Mr. Whitehouse advised the Commission that no comments were received for either Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present were Mr. Jack Hayes, Mr. Jason Palkewicz, and Mr. Edward Launay; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the parcel's Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that Sussex Academy School is located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servepro, Dixie Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center,

concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the ability to ride from Georgetown to Lewes or Rehoboth via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill, however is currently in use; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that this area is surrounded by many uses involving, planes, trains, bikes, sports, commercial and residential uses; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance in §115-22; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Future Land Use Map designates the property in the Commercial Area, however, the Zoning Map designates the property within AR-1; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains

50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required development fee is noted within the Applicant's proposed Conditions of Approval; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that originally the County suggested the Applicant contact the Town of Georgetown for sewer service; that the Town of Georgetown stated they would not have the ability to provide sewer services to the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the south east boundary, within the wooded area of the site; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations and authorized under existing law; that the Application was filed before the adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application would be permitted to pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with

a one vehicle garage; that 40% of the units would be three-bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60th residential unit building permit, which would equal the 30th duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the developer will be the owner of the property and all units; that the developer will be responsible for all maintenance, all repair, all management associated with the buildings, roads, recreational amenities, common areas, buffers etc.; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware State Housing Authority is in support of the Application; that from a land use perspective, there is no distinction from a rental unit to a sold unit, however rental units are the Applicant's business plan; that should a situation arise, where the property would be sold in the future, it would be subject to the

Delaware Condominium Law, where the responsibilities of the Developer would be taken over by a Condominium Association; that currently, there is no intent to establish a condominium regime; that with one owner, being the Developer, a condominium regime is not necessary; that there is a lack of housing; that it is very expensive to purchase a home in eastern Sussex County; that aside from the price of the home, a 20% down payment is required, a mortgage payment, property taxes, homeowners insurance and property maintenance; that the business plan proposes a person would have the ability to rent a modern home, with space, not having other residents located above or below them; that the proposed duplexes will have a parting wall between them; that the two and three bedroom units will have yards and garages; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area and the Applicant requested the Commission recommend approval for the requested Applications.

Ms. Wingate stated she liked the proposal of rental units for the area, and she questioned if there were plans to have an onsite property manager.

Ms. Stevenson questioned how many parking spaces are provided for the development; that she had concerns regarding potential road parking, which may create difficulties for emergency personnel; that she expressed concern about the lighting from the Sports at the Beach facility spilling over onto the proposed homes; that she questioned if any measure is proposed to mitigate a lighting issue and she questioned the current market rate for a two-bedroom unit.

Mr. Fuqua stated the Applicant does propose to have an onsite resident manager; that the units will have one to two-vehicle garages, that up to four vehicles could fit in the driveway; that additional parking is provided in front of the recreational center and throughout the development; that the intention is to have no road parking for the development; that the proposed parking does meet the Code requirements; that the plan will be reviewed and approved by the Delaware Fire Marshal Office; that the Applicant can attempt to add additional parking to the proposed plan; that he believed the Sports at the Beach lighting are directional lights, specifically to the ball fields; that he did not believe there was anything that could be done to the sports facility lighting and he did not believe the ball games ran late in the evenings.

Mr. Jack Hayes stated he had spent a lot of time performing studies on the rental market, approximately a year apart; that the studies confirmed little to no vacancy; that the majority of the units constructed five to six years ago are full and have remained full; that there was little family-oriented homes offered; that the proposed housing product has been built very successfully in Florida, for younger families and for families requiring more affordable housing; that the study suggested a three-bedroom unit would rent approximately between \$1,700 and \$1,800 per month; that the monthly cost would include all exterior and lawn maintenance; that the smaller units would rent approximately

between \$1,375 to \$1,400 per month; that there is a cost savings; that aside from a dividing wall, the units are essentially single-family units; that due to this, it allows for some cost savings, which allows them to be competitive; that proposed are annual rentals; that there is no intention to change the business plan to sell off as condominiums; that the intension is to hold the units, potentially refinance them with the Federal Housing Administration (FHA) 223 Program, placing the pool of mortgages in a certificate; that his partners have performed this many times before and the proposed use is a niche that is not being fulfilled in Sussex County currently.

Mr. Jason Palkewicz stated in regards to the lighting issue from Sports at the Beach, there are maintenance buildings, two ponds, and two hedge rows between the baseball fields and the subject property.

The Commission found there were two people present who wished to speak in opposition to the Application.

The Commission found that Mr. Raymond Hopkins spoke in opposition to the Application, also present was his wife, Ms. JoAnn Hopkins; that he and his wife own property, adjacent to Servepro, located directly across the street from the subject site; that his concern was to the potential traffic generated by the project; that many employees and customers enter and exit from Servepro and he requested the Commission consider traffic safety measures for the Servepro customers and employees.

The Commission found that Mr. Harry Larson, III, spoke in opposition to the Application; that his property is located adjacent to the subject site; that he was not in support of or in opposition to the Applications; that he wanted to ensure the Application is developed in the right way; that he is disheartened to see a development be placed, but understood, as it is the change of the times; that he had concerns regarding drainage and flooding; that he had experienced 14 inches of flooding around his house; that the ditch, located between his property and the subject site, relieves a lot of water; that a State representative previously informed him, that his property catches the majority of the water run off from the Sports at the Beach facility all the way down to the intersection of Rogers Avenue; that he would like to ensure the drainage situation be address; that additionally he requested consideration be given to the placement of an eight foot vinyl privacy fence, separating his property from the development; that within the last five years, traffic has become a nightmare; that the lighting from the Sports at the Beach facility lights up his backyard and he hears the National Anthem every Saturday and Sunday morning.

The Commission found that Ms. Jennifer Cinelli-Miller, with DelDOT Planning, provided neutral comment regarding the Applications; that her comments were not made in support or opposition to the Applications; that she wanted to remind the Commission and the Applicant that the DelDOT Coastal Corridors Study, which is the second joint effort between Sussex County and DelDOT, is still ongoing; that DelDOT is in the process of conducting State Corridors conversations with the Corridors Committee; that the Corridors Committee will be discussing U.S. 9 Corridor on February 13, 2023; that DelDOT anticipates to attend a public workshop later in the spring; that she estimates a final report will be available in late summer or early fall; that there is a lot needing to be done, in conjunction with the Applicant and DelDOT Development Coordination; that anything which may

come out of the study, which may be a recommendation or plan for traffic improvements around the subject corridor would need to be adhered to; that the Applicant may be asked to contribute to potential changes or the implementation of future projects and the study is currently moving forward in a very positive way.

The Commission found there was no one present by teleconference who wished to speak in support or opposition to the Applications.

Upon there being no further questions, Chairman Wheatley closed the public hearings.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to Ord. 22-07 related to Tax Parcels 135-15.00-98.00 & 98.01. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

Minutes of the February 23, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of Ordinance No. 22-07 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 135-15.00-98.00 and 98.01, based on the record made during the public hearing and for the following reasons:

1. The parcel is currently designated as the Commercial Area according to the Future Land Use Map. This application seeks to convert the property to the “Developing Area” designation.
2. The Developing Area and Commercial Area are both “Growth Areas” according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.
3. The parcel has frontage on Route 9, which is an appropriate location for the Developing Area designation.
4. Although the site was originally given the Commercial Area designation in the Comprehensive Plan due to its proximity to the railroad, the County Industrial Park, Route 9, and Sports at the Beach, there has not been any movement to develop it commercially. The Developing Area designation is equally appropriate, since it will permit the property to be residentially developed at a location that is in close proximity to the Town of Georgetown and the employment opportunities and commercial uses.
5. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
6. There is central sewer and water available to the property.
7. No parties appeared in opposition to this Map Amendment.
8. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of ORD. 22-07 in relation to Tax Parcels 135-15.00-98.00 & 98.01 for the reasons stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

Introduced: 9/20/22

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-98.00 & 98.01

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01.

WHEREAS, on April 28, 2022, the Sussex County Planning and Zoning Office received an application for a Comprehensive Plan Amendment Request to amend the Future Land Use Map element of the Comprehensive Plan to change the Area designation of a portion of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 from the Commercial Area to the Developing Area; and

WHEREAS, the Parcel approximating 50.797 acres of land, lying and being within Georgetown Hundred, and located on the south side of Lewes Georgetown Highway (Route 1), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway.

WHEREAS, The Property is designated as being within the Commercial Area as set forth in the Future Land Use Map identified as Figure 4.5-1 in the 2018 Comprehensive Plan for Sussex County.

WHEREAS, Sussex County Council desires to adopt this Ordinance amending the Future Land Use Map of the Plan with minor amendments; and

WHEREAS, in accordance with the required process for public hearings on Ordinances such as this one, both Sussex County Council and the Sussex County Planning & Zoning Commission will hold public hearings on this Ordinance but limited in scope to this specific proposed amendment to the Future Land Use Map contained in the Plan.

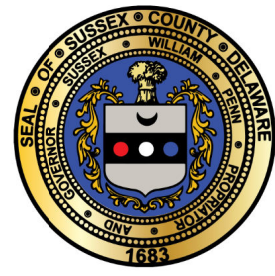
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Future Land Use Map identified as Figure 4.5-1 of the Sussex County Comprehensive Plan is hereby amended to change the area designation of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 from the Commercial Area to the Developing Area. The entirety of Sussex County Parcel Nos. 135-15.00-98.00 & 98.01 so changed is identified in Exhibit A, attached hereto, and incorporated herein.

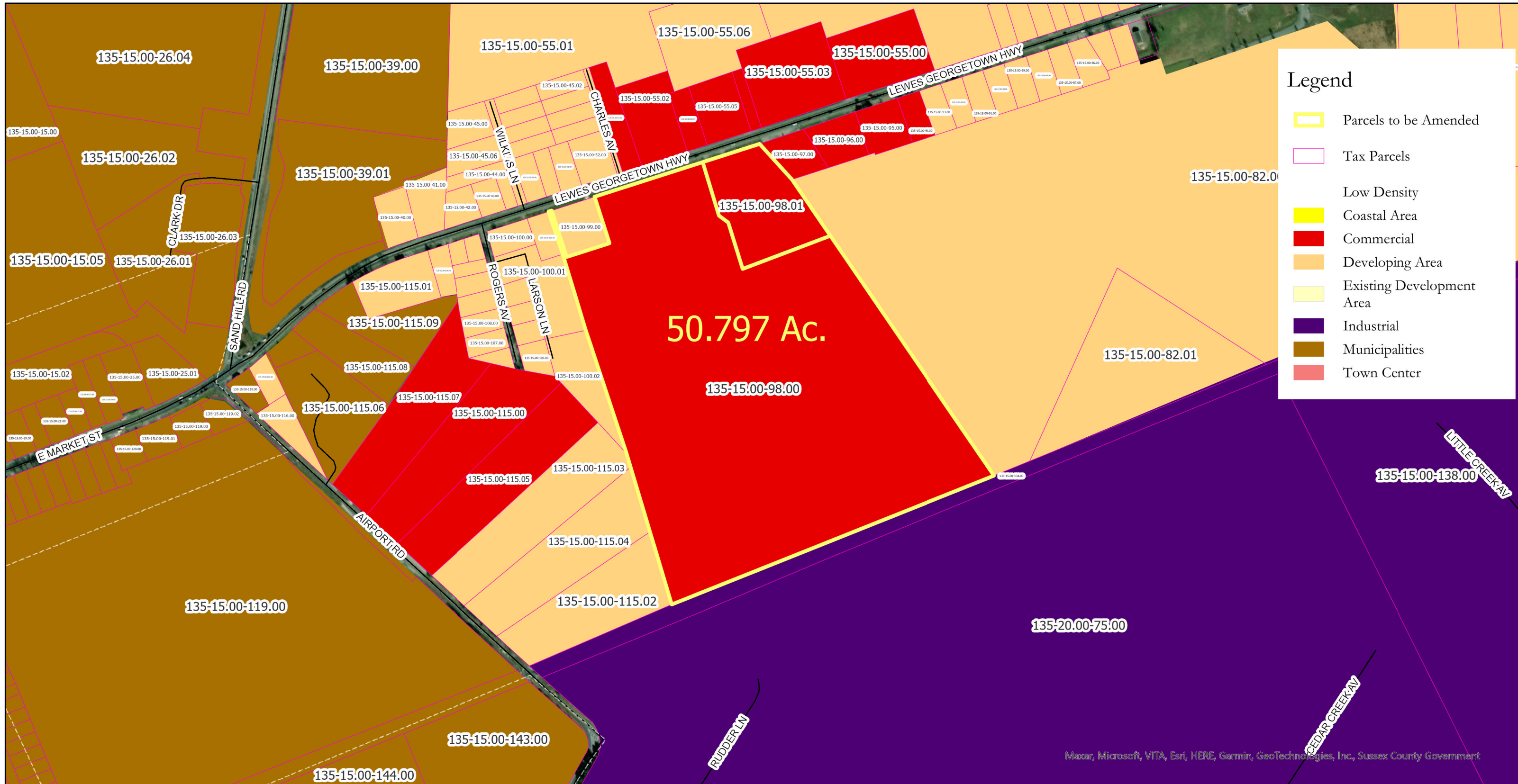
Section 2. This Ordinance shall also take effect following its adoption by majority vote of all members of the County Council of Sussex County, Delaware, and upon certification by the State of Delaware.

EXHIBIT A:

Potential Comprehensive Plan
Amendment Parcels



Sussex County

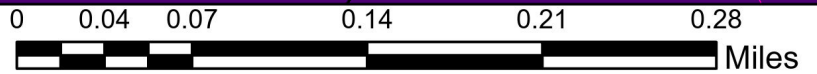


Legend

- Parcels to be Amended
- Tax Parcels
- Low Density
- Coastal Area
- Commercial
- Developing Area
- Existing Development Area
- Industrial
- Municipalities
- Town Center

50.797 Ac.

135-15.00-98.00



Maxar, Microsoft, VITA, Esri, HERE, Garmin, GeoTechnologies, Inc., Sussex County Government

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: May 4, 2023

RE: County Council Old Business Report for C/U 2369 filed on behalf of Leeward Chase DE, LLC

The Planning and Zoning Department received an application (C/U 2369 filed on behalf of Leeward Chase, LLC) for a Conditional Use for parcels 135-15.00-98.00 and 98.01 for multi-family dwellings (106 units). The property is located at 22242 Lewes Georgetown Highway, Georgetown. The parcel size is 50.80 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on January 26, 2023. At the meeting of February 23, 2023, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 19 recommended conditions as outlined within the motion (copied below). The County Council held a Public Hearing on both C/U 2369 and Ord. No. 22-07 on February 28, 2023. At the conclusion of the meeting, the Council deferred action on application C/U 2369, holding the record open for Ord. No. 22-07 to receive PLUS comments from the State of Delaware. Below is a link to the minutes of the meeting of February 28, 2023

[Link to the Minutes of the County Council Meeting of February 28, 2023](#)

Below are the minutes from the Planning & Zoning Commission meetings of January 26, 2023, and February 23, 2023.

Minutes of the January 26, 2023, Planning & Zoning Commission Meeting

Mr. Whitehouse advised the Commission that the Ordinance request was to amend the area designation on the Future Land Use Map from the Commercial Area to the Developing Area. Mr.

Whitehouse advised the Commission that submitted into the record were the Application



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form, an Exhibit Map, a copy of the Ordinance introduced by the County Council on January 3, 2023, and a copy of the Applicant's statement made to PLUS. Mr. Whitehouse advised the Commission that no PLUS comments had been received regarding the Ordinance and the Ordinance is required to go through the new PLUS process.

C/U 2369 Leeward Chase DE, LLC

An Ordinance to grant a Conditional Use of land in an Agricultural Residential District for multi-family dwellings (106 units) to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 50.80 acres, more or less. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, the State's PLUS comments, the Applicant's response to the State's PLUS comments, a letter received from the Federal Aviation Administration, a letter received from Tidewater Utilities, Inc., and the Applicant's Assessment of Environmental Conditions.

Mr. Whitehouse advised the Commission that no comments were received for either Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present were Mr. Jack Hayes, Mr. Jason Palkewicz, and Mr. Edward Launay; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the parcel's Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that Sussex Academy School is located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servepro, Dixie Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center, concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the

ability to ride from Georgetown to Lewes or Rehoboth via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill, however is currently in use; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that this area is surrounded by many uses involving, planes, trains, bikes, sports, commercial and residential uses; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance in §115-22; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Future Land Use Map designates the property in the Commercial Area, however, the Zoning Map designates the property within AR-1; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains 50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required

development fee is noted within the Applicant's proposed Conditions of Approval; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that originally the County suggested the Applicant contact the Town of Georgetown for sewer service; that the Town of Georgetown stated they would not have the ability to provide sewer services to the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the south east boundary, within the wooded area of the site; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations and authorized under existing law; that the Application was filed before the adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application would be permitted to pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with a one vehicle garage; that 40% of the units would be three-bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed

on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60th residential unit building permit, which would equal the 30th duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the developer will be the owner of the property and all units; that the developer will be responsible for all maintenance, all repair, all management associated with the buildings, roads, recreational amenities, common areas, buffers etc.; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware State Housing Authority is in support of the Application; that from a land use perspective, there is no distinction from a rental unit to a sold unit, however rental units are the Applicant's business plan; that should a situation arise, where the property would be sold in the future, it would be subject to the Delaware Condominium Law, where the responsibilities of the Developer would be taken over by a Condominium Association; that currently, there is no intent to establish a condominium regime; that with one owner, being the Developer, a condominium regime is not necessary; that there is a lack of housing; that it is very expensive to purchase a home in eastern Sussex County; that aside from the price of the home, a 20% down payment is required, a mortgage payment, property taxes, homeowners

insurance and property maintenance; that the business plan proposes a person would have the ability to rent a modern home, with space, not having other residents located above or below them; that the proposed duplexes will have a parting wall between them; that the two and three bedroom units will have yards and garages; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area and the Applicant requested the Commission recommend approval for the requested Applications.

Ms. Wingate stated she liked the proposal of rental units for the area, and she questioned if there were plans to have an onsite property manager.

Ms. Stevenson questioned how many parking spaces are provided for the development; that she had concerns regarding potential road parking, which may create difficulties for emergency personnel; that she expressed concern about the lighting from the Sports at the Beach facility spilling over onto the proposed homes; that she questioned if any measure is proposed to mitigate a lighting issue and she questioned the current market rate for a two-bedroom unit.

Mr. Fuqua stated the Applicant does propose to have an onsite resident manager; that the units will have one to two-vehicle garages, that up to four vehicles could fit in the driveway; that additional parking is provided in front of the recreational center and throughout the development; that the intention is to have no road parking for the development; that the proposed parking does meet the Code requirements; that the plan will be reviewed and approved by the Delaware Fire Marshal Office; that the Applicant can attempt to add additional parking to the proposed plan; that he believed the Sports at the Beach lighting are directional lights, specifically to the ball fields; that he did not believe there was anything that could be done to the sports facility lighting and he did not believe the ball games ran late in the evenings.

Mr. Jack Hayes stated he had spent a lot of time performing studies on the rental market, approximately a year apart; that the studies confirmed little to no vacancy; that the majority of the units constructed five to six years ago are full and have remained full; that there was little family-oriented homes offered; that the proposed housing product has been built very successfully in Florida, for younger families and for families requiring more affordable housing; that the study suggested a three-bedroom unit would rent approximately between \$1,700 and \$1,800 per month; that the monthly cost would include all exterior and lawn maintenance; that the smaller units would rent approximately between \$1,375 to \$1,400 per month; that there is a cost savings; that aside from a dividing wall, the units are essentially single-family units; that due to this, it allows for some cost savings, which allows them to be competitive; that proposed are annual rentals; that there is no intention to change the business plan to sell off as condominiums; that the intension is to hold the units, potentially refinance them with the Federal Housing Administration (FHA) 223 Program, placing the pool of mortgages in

a certificate; that his partners have performed this many times before and the proposed use is a niche that is not being fulfilled in Sussex County currently.

Mr. Jason Palkewicz stated in regards to the lighting issue from Sports at the Beach, there are maintenance buildings, two ponds, and two hedge rows between the baseball fields and the subject property.

The Commission found there were two people present who wished to speak in opposition to the Application.

The Commission found that Mr. Raymond Hopkins spoke in opposition to the Application, also present was his wife, Ms. JoAnn Hopkins; that he and his wife own property, adjacent to Servepro, located directly across the street from the subject site; that his concern was to the potential traffic generated by the project; that many employees and customers enter and exit from Servepro and he requested the Commission consider traffic safety measures for the Servepro customers and employees.

The Commission found that Mr. Harry Larson, III, spoke in opposition to the Application; that his property is located adjacent to the subject site; that he was not in support of or in opposition to the Applications; that he wanted to ensure the Application is developed in the right way; that he is disheartened to see a development be placed, but understood, as it is the change of the times; that he had concerns regarding drainage and flooding; that he had experienced 14 inches of flooding around his house; that the ditch, located between his property and the subject site, relieves a lot of water; that a State representative previously informed him, that his property catches the majority of the water run off from the Sports at the Beach facility all the way down to the intersection of Rogers Avenue; that he would like to ensure the drainage situation be address; that additionally he requested consideration be given to the placement of an eight foot vinyl privacy fence, separating his property from the development; that within the last five years, traffic has become a nightmare; that the lighting from the Sports at the Beach facility lights up his backyard and he hears the National Anthem every Saturday and Sunday morning.

The Commission found that Ms. Jennifer Cinelli-Miller, with DelDOT Planning, provided neutral comment regarding the Applications; that her comments were not made in support or opposition to the Applications; that she wanted to remind the Commission and the Applicant that the DelDOT Coastal Corridors Study, which is the second joint effort between Sussex County and DelDOT, is still ongoing; that DelDOT is in the process of conducting State Corridors conversations with the Corridors Committee; that the Corridors Committee will be discussing U.S. 9 Corridor on February 13, 2023; that DelDOT anticipates to attend a public workshop later in the spring; that she estimates a final report will be available in late summer or early fall; that there is a lot needing to be done, in conjunction with the Applicant and DelDOT Development Coordination; that anything which may come out of the study, which may be a recommendation or plan for traffic improvements around the subject corridor would need to be adhered to; that the Applicant may be asked to contribute to potential changes or the implementation of future projects and the study is currently moving forward in a very positive way.

The Commission found there was no one present by teleconference who wished to speak in support or opposition to the Applications.

Upon there being no further questions, Chairman Wheatley closed the public hearings.

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to C/U 2369 Leeward Chase DE, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

Minutes of the February 23, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2369 Leeward Chase DE, LLC for a Conditional Use to allow 106 multifamily dwellings, based upon the record made during the public hearing and for the following reasons:

1. The property is zoned AR-1 Agricultural Residential. The property is in the vicinity of the Town of Georgetown, other residential developments, schools, commercial uses and a large sports complex. This is an appropriate location for this Conditional Use.
2. The Applicant seeks approval of duplex-style multi-family structures. The Comprehensive Plan states that this type of development is appropriate in areas near main roadways, near commercial areas and employment centers, and with central water and sewer. All of the considerations are satisfied here. This use is also consistent with the Town of Georgetown's 2021 Comprehensive Plan.
3. The proposed development will have no more than 106 homes on 50.80 acres. The Applicant will be required to contribute bonus density funds for each unit above the base density of two units per acre.
4. The County Engineering Department has indicated that adequate wastewater capacity is available for this site. Central water will also be provided.
5. DelDOT has determined that the project will have a minor impact upon area roadways.
6. The Applicant is providing a buffer of at least thirty feet from all non-tidal wetlands and the development will include approximately 35.98 acres of open space, which represents approximately 70% of the site.
7. The project will not adversely affect the neighborhood or surrounding community. There are existing land uses in the immediate area with similar or more intensive characteristics.
8. The Commission has recommended that the Future Land Use Map for this property be changed from Commercial Area designation to a Developing Area designation. Development such as this Multifamily Conditional Use is appropriate in the Developing Area according to the Plan.
9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.

10. With the conditions and stipulations placed upon it, this residential Conditional Use is appropriate for this location.
11. This recommendation is subject to the following conditions:
 - A. There shall be no more than 106 dwelling units within this project. The Applicant shall be required to pay the bonus density fee for each unit that exceeds two (2) units per acre as required by Section 115-25 of the Sussex County Zoning Code.
 - B. The Applicant shall comply with the requirements of Section 115-22 “Conditional Uses” regarding a multifamily conditional use in the AR-1 Zoning District.
 - C. A condominium association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas.
 - D. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.
 - E. The development shall be served by Sussex County sewer and comply with all requirements of the County Engineering Department.
 - F. The development shall be served by central water.
 - G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
 - H. Interior street design shall comply with or exceed Sussex County standards. Sidewalks shall be installed on both sides of the interior streets. All streetlighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - I. All recreational amenities shall be shown on the Final Site Plan. They shall be open for use prior to the issuance of the 30th duplex building permit or the 60th unit.
 - J. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation where it is currently present in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior edge of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.
 - K. As proffered by the Applicant, there shall be a minimum setback from nontidal wetlands of at least 30 feet. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited unless indicated on the Final Site Plan. All silt fencing shall be located along the interior limit of this buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of buffer area except as noted on the Final Site Plan.
 - L. If requested by the local school district, a school bus stop shall be provided by the entrance to the development. The location of the bus stop area shall be shown on the Final Site Plan.

- M. Road naming and addressing shall be subject to the review and approval of Sussex County Geographic Information Office.
- N. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- O. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site.
- P. Given the proximity to the nearby airport, the Applicant shall comply with all applicable requirements of the Federal Aviation Administration regarding the development, construction, and use of the project.
- Q. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.
- R. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00a.m. and 6:00p.m. A 24 inch by 36 inch “NOTICE” sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during constructions.
- S. The Final Site Plan shall be subject to the review & approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2369 Leeward Chase DE, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

PLANNING & ZONING COMMISSION

ROBERT C. WHEATLEY, CHAIRMAN
KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



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DIRECTOR OF PLANNING & ZONING

PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET
Planning Commission Public Hearing Date: January 26th, 2023

Application: C/U 2369 – Leeward Chase DE, LLC

Applicant: Leeward Chase DE, LLC (Attn: Jack Haese)
448 Viking Drive, Suite 220
Virginia Beach, VA 23452

Owner: Moores Meadowood Farm, LLC
P.O. Box 447
Georgetown, DE 19947

Site Location: Lying on the south side of Lewes Georgetown Highway (Route 9)
approximately 0.4 mile east of Airport Road (S.C.R. 319).

Current Zoning: Agricultural Residential (AR-1) Zoning District

Proposed Use: Multi-family Dwellings

Comprehensive Land
Use Plan Reference: Developing Area (Pending FLUM Ord. 22-07)

Councilmanic
District: Ms. Rieley

School District: Indian River School District

Fire District: Georgetown Fire Department

Sewer: Sussex County

Water: Private on-site

Site Area: 50.8 acres +/-

Tax Map ID: 135-15.00-98.00 & 98.01



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Sussex County

DELAWARE
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Memorandum

To: Sussex County Planning Commission Members
From: Mr. Michael Lowrey, Planner III
CC: Mr. Vince Robertson, Assistant County Attorney and Applicant
Date: December 27, 2022
RE: Staff Analysis for C/U 2369 Leeward Chase DE, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application C/U 2369 Leeward Chase DE, LLC to be reviewed during the January 26th, 2023, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for a Conditional Use for Tax Parcels: 135-15.00-98.00 & 135-15.00-98.01 to allow for multi-family dwellings (106 units). The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. The parcels are comprised of a total of 50.797 acres +/-.

Comprehensive Plan Analysis

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use Map in the plan indicates that the parcels have a Growth Area designation of "Commercial Area." The adjacent parcels to the east and north of the subject property on the Route 9 corridor also have the Future Land Use Map (FLUM) designation of "Commercial Area." The properties adjacent to the south have the "Industrial" category designation and the parcels to the east on Route 9 and adjacent to the southeast are categorized "Developing Area."

In conjunction with this Conditional Use Application, the Applicant has applied for a Comprehensive Plan Amendment to amend the FLUM category from "Commercial" to "Developing Area" for the subject parcels. The current Agricultural Residential (AR-1) Zoning District is listed as an Applicable Zoning District for both "Commercial" and "Developing Area" under Table 4.5-2 in the Plan.

Developing Areas are newer, emerging growth areas that demonstrate the characteristics of developmental pressures and the Plan notes that "most of the proposed Developing Areas are adjacent to municipalities...or adjacent to Town Centers" (2018 Sussex County Comprehensive Plan, 4-14). The Plan also notes guidelines for density in areas classified Developing Area, noting that a "density (4-12 units per acre) can be appropriate" where development can be supported by central water/sewer, a proximity to commercial and employment centers, or location along a main road or intersection (2018 Sussex County Comprehensive Plan, 4-14). Finally, the Plan notes that



“a range of housing types should be permitted in Developing Areas, including single-family homes, townhouses, and multi-family units.” (2018 Sussex County Comprehensive Plan, 4-14). Under the guidelines in the Plan, if the Applicant’s FLUM amendment were to be approved by County Council, the proposed Conditional Use to permit (106 units) multi-family dwellings could be seen as appropriate at this site.

Zoning Information

The subject parcels are zoned Agricultural Residential (AR-1) District. The adjacent properties to the north are zoned General Commercial (C-1) District with the remainder of the adjacent parcels to the west, south and east and west zoned Agricultural Residential (AR-1) District.

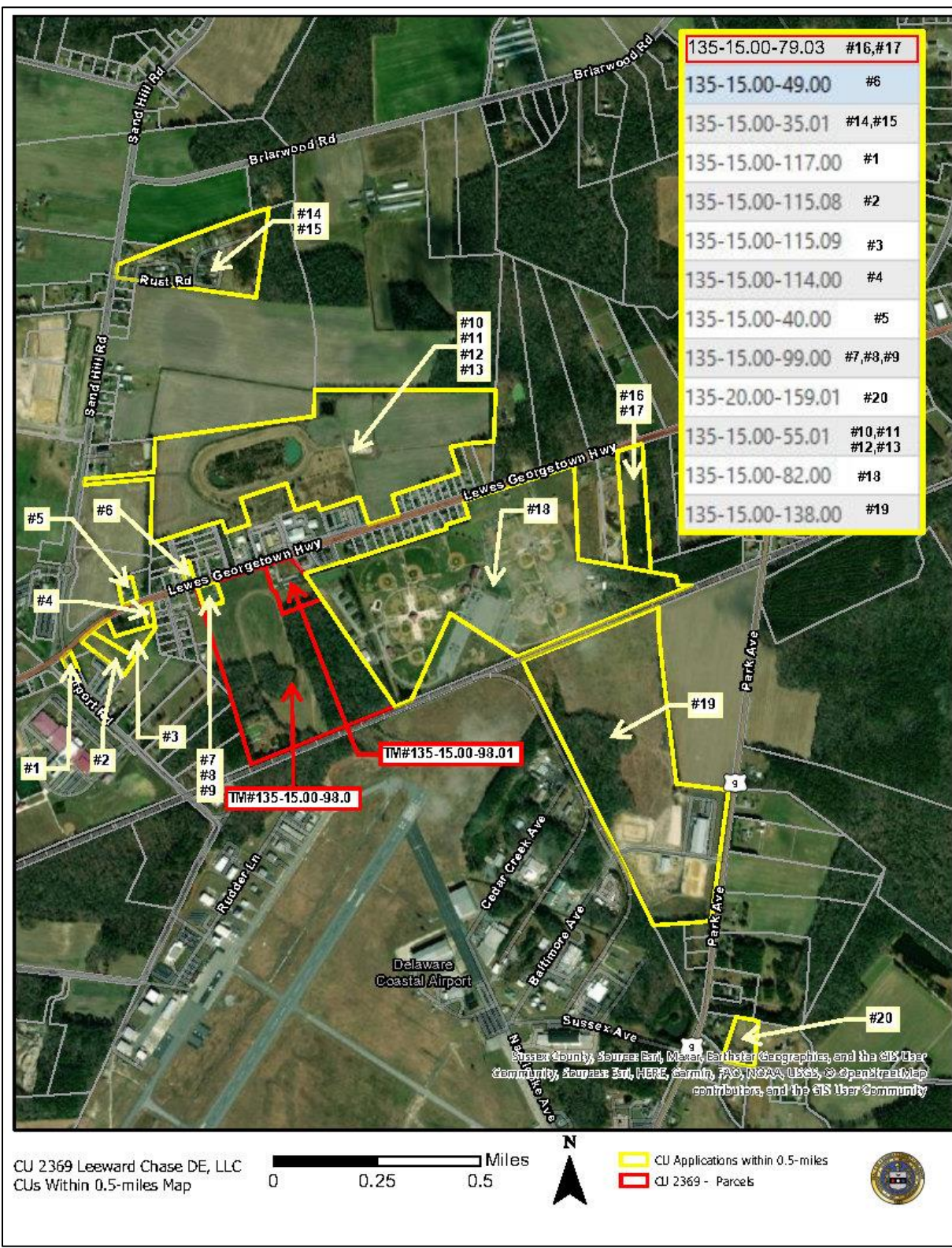
Conditional Use Applications within the Vicinity of the Subject Site
 (Within a 0.5-mile radius of the subject site)

Change of Zone Applications (Within a 0.5-mile radius of the subject site)							
Item # on Attached Map	Application Number	Application Name	Zoning District	Proposed Use	CC Decision	CC Decision Date	Ordinance Number
#1	<u>CU 1515</u>	Robin David Reifsnyder	AR-1	Classroom/studio pottery & crafts	Denied	1/13/2004	N/A
#2	<u>CU 1241</u>	Carlton R. Moore	AR-1	Mini Storage	Approved	5/12/1998	Ord. No. 1234
#3	<u>CU 1287</u>	Ken Shapter	AR-1	Mini Storage	Denied	6/15/1999	N/A
#4	<u>CU 979</u>	Clifford A. & Florence E. Moore	AR-1	Gift shop & yard sale	Withdrawn	8/27/1991	N/A
#5	<u>CU 2119</u>	Chad Hayes	AR-1	Automotive sales w/ minor repair & contractor office w/ storage	Approved	04/17/2018	Ord. No. 2571

#6	<u>CU 2412</u>	Marco Morales	AR-1	Professional Office for Construction	Pending	N/A	N/A
#7	<u>CU 1532</u>	Triangle Electrical Service Co.	AR-1	Office/Storage	Approved	05/04/2004	Ord. No. 1687
#8	<u>CU 991</u>	James R. & Barbara DeBastiani	AR-1	Manufacture & Sell Crafts/Gifts	Approved	02/02/2016	Ord. No. 808
#9	<u>CU 1814</u>	Calvin Nelson	AR-1	Auto repair shop	Denied	02/02/2010	N/A
#10	<u>CU 2080</u>	Clean Bay Renewables, LLC Sussex I	AR-1	Electrical generation and nutrient recovery facility	Withdrawn	7/18/2017	N/A
#11	<u>CU 2079</u>	Clean Bay Renewables, LLC Sussex I	AR-1	Electrical generation and nutrient recovery facility	Withdrawn	7/18/2017	N/A
#12	<u>CU 421</u>	Tri-State Racing Inc	AR-1	Dog Racing	Denied	5/2/1978	N/A
#13	<u>CU 2228</u>	M.L. Joseph Heirs Farm Account, LLC	AR-1	Campground	Approved	11/17/2020	Ord. No. 2755
#14	<u>CU 225</u>	Marshall B Wilkins	AR-1	Addition to Existing Mobile Home Park	Approved	7/30/1974	Ord. No.
#15	<u>CU 349</u>	Marshall B Wilkins	AR-1	Addition to Existing Mobile Home Park	Approved	6/1/1976	Ord. No.

#16	<u>CU 2083</u>	Richard H. Bell, III	AR-1	Contracting business w/outdoor storage & crushing of concrete	Approved	8/8/2017	Ord. No. 2515
#17	<u>CU 1688</u>	Richard H. Bell, III	AR-1	Contracting Business	Approved	7/24/2007	Ord. No. 1913
#18	<u>CU 1421</u>	Wallace P. Townsend, Jr.	AR-1 & CR-1	Athletic Facility	Approved	11/27/2001	Ord. No. 1421
#19	<u>CU 1705</u>	The Commonwealth Group (King Farm Industrial Park)	AR-1	Warehousing, Mini Storage & Contractor Condominiums	Approved	10/2/2007	Ord. No. 1421
#20	<u>CU 2182</u>	Samuel G. Thomas	AR-1	Automotive repair and dealer	Approved	9/17/2019	Ord. No. 2679

Based on the analysis of the land use, surrounding zoning and uses, a Conditional Use to allow for the construction of multi-family dwellings (106 units) at this site, subject to considerations of scale and impact, could be considered as being consistent with the land use, area zoning and surrounding uses.



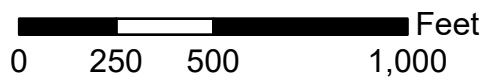
135-15.00-79.03	#16,#17
135-15.00-49.00	#6
135-15.00-35.01	#14,#15
135-15.00-117.00	#1
135-15.00-115.08	#2
135-15.00-115.09	#3
135-15.00-114.00	#4
135-15.00-40.00	#5
135-15.00-99.00	#7,#8,#9
135-20.00-159.01	#20
135-15.00-55.01	#10,#11 #12,#13
135-15.00-82.00	#18
135-15.00-138.00	#19

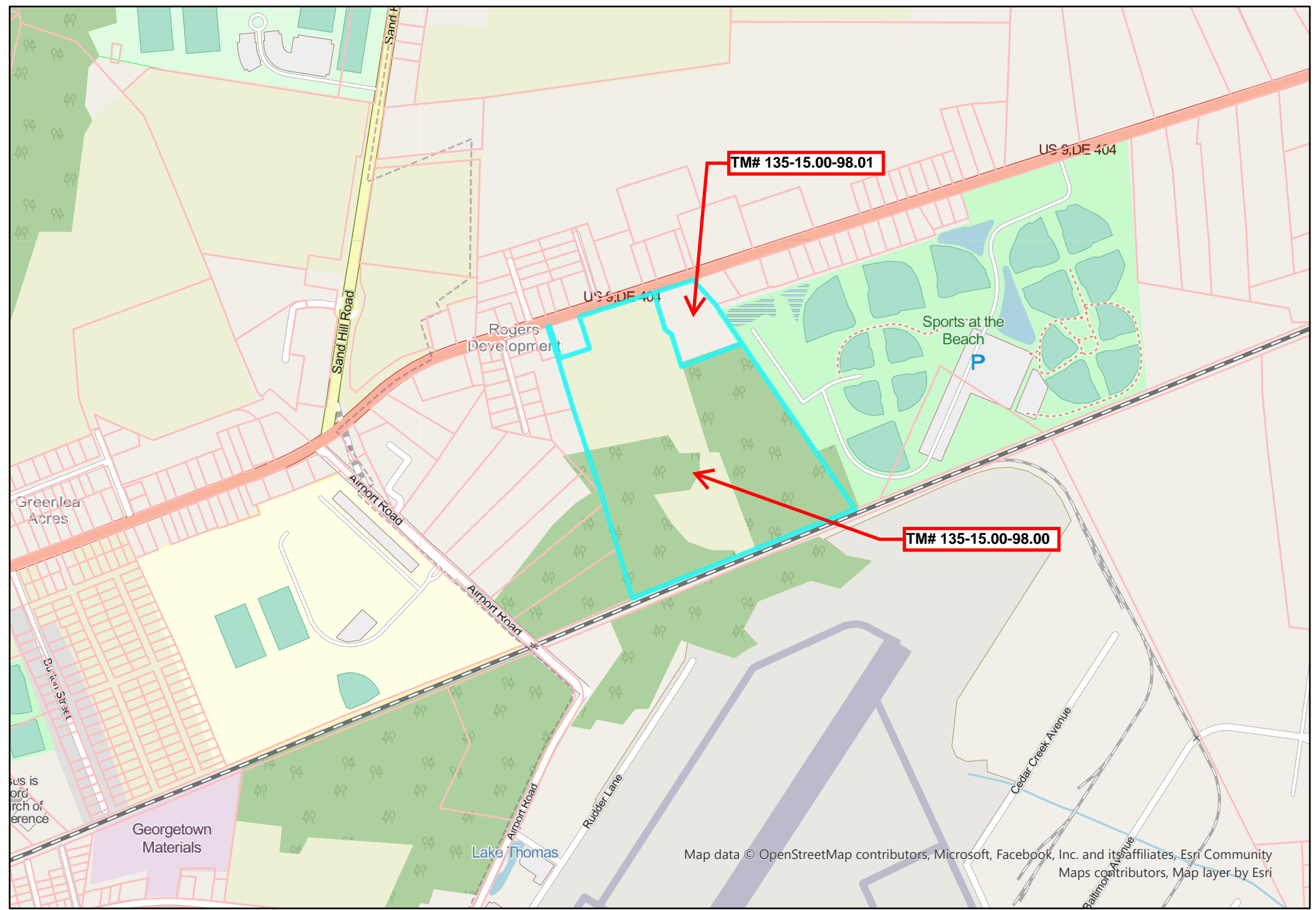
TM#135-15.00-98.01
 TM#135-15.00-98.0



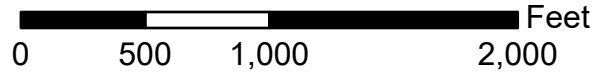
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Aerial Map
CU 2369 -Leeward Chase, LLC
P&Z Meeting - 01/26/2023
























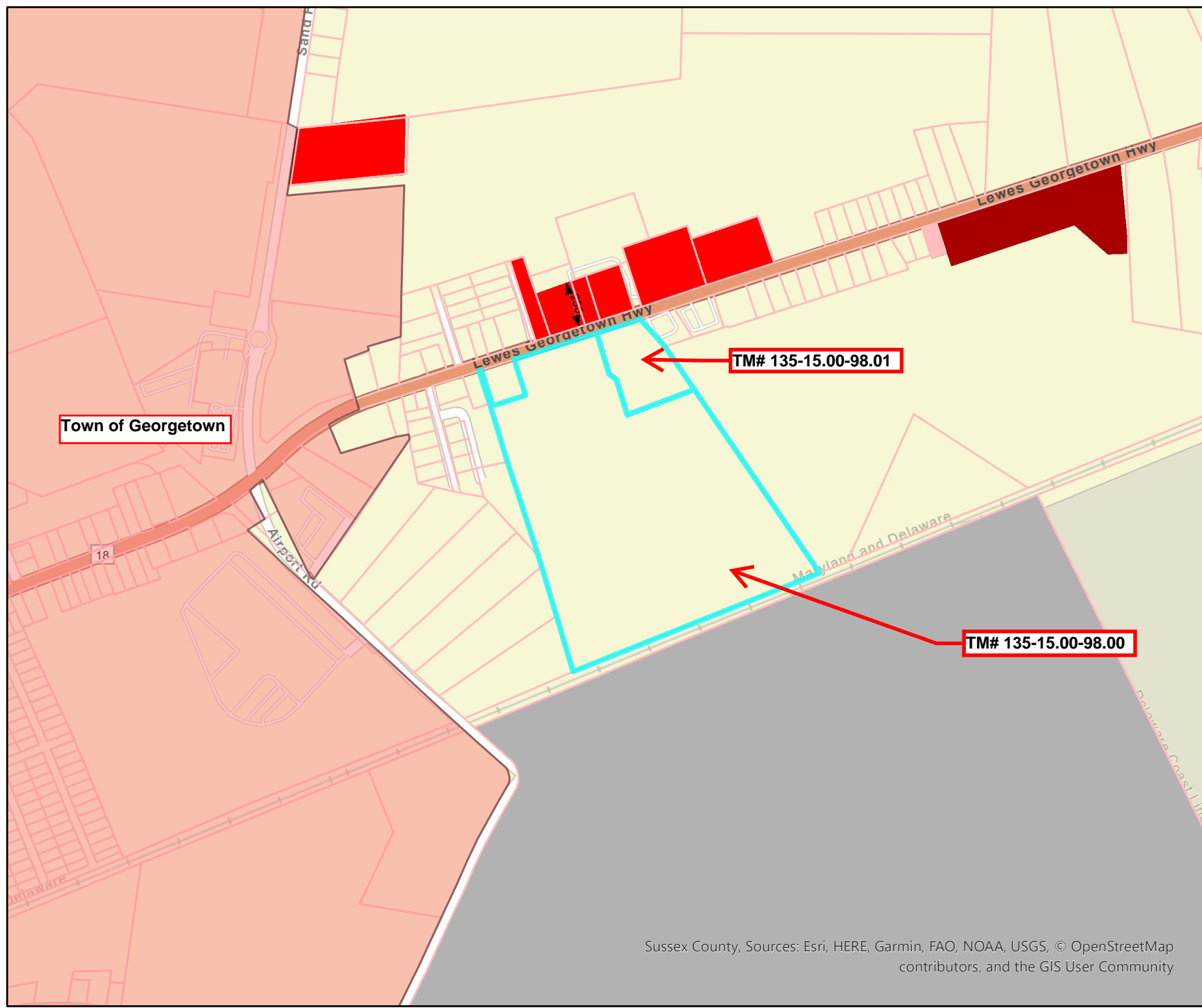


Street Map
CU 2369 -Leeward Chase, LLC
P&Z Meeting - 01/26/2023



Zoning

-  Agricultural Residential - AR-1
-  Agricultural Residential - AR-2
-  Medium Residential - MR
-  General Residential - GR
-  High Density Residential - HR-1
-  High Density Residential - HR-2
-  Vacation, Retire, Resident - VRP
-  Neighborhood Business - B-1
-  Neighborhood Business - B-2
-  Business Research - B-3
-  General Commercial - C-1
-  General Commercial - C-2
-  General Commercial - C-3
-  General Commercial - C-4
-  General Commercial - C-5
-  Commercial Residential - CR-1
-  Institutional - I-1
-  Marine - M
-  Limited Industrial - LI-1
-  Light Industrial - LI-2
-  Heavy Industrial - HI-1



Sussex County, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Zoning Map
 CU 2369 -Leeward Chase, LLC
 P&Z Meeting - 01/26/2023



Introduced: 1/3/23

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-98.00 & 98.01
911 Address N/A & 22242 Lewes Georgetown Highway, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS

WHEREAS, on the 28th day of April 2022, a conditional use application, denominated Conditional Use No. 2369 was filed on behalf of Leeward Chase DE, LLC; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County, and said Planning and Zoning Commission recommended that Conditional Use No. 2369 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2369 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situated in Georgetown Hundred, Sussex County, Delaware, and located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway and being more particularly described in the attached legal description prepared by Solutions Integrated Planning Engineering & Management, LLC, said parcel containing 50.80 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by a majority vote of all members of the County Council of Sussex County, Delaware.

Green
Yes. 4/21

Council Grant Form

Legal Name of Agency/Organization Coastal Concerts, Inc. ✓

Project Name 2023-24 Season Scholarships

Federal Tax ID 51-0390279 ✓

Non-Profit Yes

Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.) No

Organization's Mission

Coastal Concerts enriches our community by presenting live concerts, outreach, and educational activities by renowned musicians, encompassing rich traditions of the past while reflecting cultural diversity in the evolution of classical music.

Our community is enriched, inspired and transformed through music. Coastal Concerts promotes classical music through live concerts, outreach, and educational activities. We are entering our 25th Season and are excited to bring a wide-range of classical music to our stage in Lewes. We will continue to make fine music accessible, enjoyable, and understandable for members of the community by:

*Presenting an annual five-concert and six-concert subscription series, featuring internationally acclaimed and culturally diverse, classically trained artists.

*Providing free concert admission for youth ages 10 to 18 plus one accompanying adult, and discounted admission for students 19 and older, as well as for active duty and

career military personnel and first responders.

*Sponsoring annual music scholarship awards to talented middle and high school students from the Delmarva area giving special attention to those studying music in Sussex County.

*Sponsoring an annual scholarship winners concert in the fall providing an opportunity to showcase our young talented musicians.

*Offering free concerts and community music appreciation programs, including our RAVE concert series and Performance Insights lectures that examine themes, forms, and other elements of music, thereby enhancing audience members' experience.

*Arranging free interactive educational programs and master classes in Sussex County schools by our guest artists.

*Collecting used but playable musical instruments donated to our "Toot Your Own Horn" program and placing them with the Cape Henlopen School District and other Southern Delaware Schools.

Address P.O. Box 685

Address 2

City Lewes

State Delaware

Zip Code 19958

Contact Person Carol Dennis

Contact Title Executive Director

Contact Phone Number 4107455699

Contact Email Address	coastalcarol226@gmail.com
Total Funding Request	2,000
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	Yes
If YES, approximately what percentage of the project's funding does the Council grant represent?	33
Program Category (choose all that apply)	Cultural
Program Category Other	
Primary Beneficiary Category	Youth

Beneficiary Category
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program

6

Scope

Coastal Concerts continues to competitively award scholarships each year to help musically talented high school and middle school students continue their musical endeavors. Since our program began in 2002, we have been able to award over 50 deserving students in the Delmarva area total amounts exceeding \$50,000.

While we did not apply for a Sussex County Scholarship in 2020 due to the pandemic, thanks to the help of the Sussex County Council in previous years, Coastal Concert patrons and the Dorothy and Elizabeth Scholarship Fund, we were able to provide scholarships to five high school and middle school students, one pianist who lived in Sussex County, in 2021, and to eight worthy students, two of whom were from Sussex County, in 2022, one playing the flute and the other the clarinet. This year will bring a flautist from Sussex County as well as four other winners from the Delmarva area.

Having had a few successful years since the pandemic, we decided to enhance our Scholarship Program by providing our scholarship winners an opportunity to perform before an audience. We presented a very successful concert by showcasing eight of our winners, some of whom had won scholarships from a few years ago and others who were our most recent winners. Three of the eight performers were from Sussex County, all having won scholarships provided by the Sussex County Council. We will be presenting our

Second Annual Winners' Concert on October 21, and hope to be able to showcase our local talent yet again.

While our annual scholarship program is just one element of Coastal Concerts' comprehensive commitment to promoting classical music appreciation, we have several other initiatives, to include school-based performances by professional concert artists, free youth and discounted student admission to concerts, free community lectures and performances as well as the collection of gently used but playable instruments for donation to local schools.

As we enter our 25th Season of performances in October, Coastal Concerts intends to continue to provide its patrons with world-class entertainment and to recognize the Delmarva area's musically talented high school and middle school students with scholarships with the help of the Sussex County Council.

Religious Components

NA

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)

1,500.00

Description

Expected Scholarships

Amount

6,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 6,000.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -4,500.00

Name of Organization Coastal Concerts, Inc.

**Applicant/Authorized
Official** Carol Dennis

Date 03/22/2023

Affidavit

Yes

Acknowledgement

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

Casey Hall

From: Lee April <leehoya63@gmail.com>
Sent: Friday, March 31, 2023 11:04 AM
To: Casey Hall
Cc: Carol Dennis
Subject: Re: Councilmanic Grant request

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Casey,

Thank you for taking my call earlier today.

We would like to confirm that our recipient resides in Sussex County in the city of Milford, Delaware, which is situated in both Sussex and Kent counties.

All middle school and high school students residing in the Delmarva area are eligible for other awards we give out each year, but any monies received by the Sussex County Council is reserved for those students living in Sussex County.

I hope this clarifies your question below. Thank you.

Lee April

On Mar 31, 2023, at 8:48 AM, Casey Hall <casey.hall@sussexcountyde.gov> wrote:

Thank you for the response. I would like to confirm that the recipient is a Sussex County student since Milford High School resides in Kent County. Does Kent County also participate? This will help us determine where the funds will come from if approved for consideration.

Look forward to hearing from you!

Casey Hall

Casey Hall, Clerk III
Administration | Sussex County Government
P.O. Box 589 | 2 The Circle | Georgetown, DE 19947
Tel: 302.855.7743 x7937 Fax: 302.855.7749

From: Lee April <leehoya63@gmail.com>
Sent: Monday, March 27, 2023 10:26 AM
To: Casey Hall <casey.hall@sussexcountyde.gov>
Cc: Carol Dennis <coastalcarol226@gmail.com>
Subject: Fwd: Councilmanic Grant request

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Casey,

There are several middle schools and high schools in Sussex County. All middle and high school students studying music in Sussex County are eligible to apply. This year's recipient is a senior at Milford High School.

Please let me know if you require anything else.

Lee April
Chair
Coastal Concerts Student
Scholarship Program

Sent from my iPhone

Begin forwarded message:

From: Carol Dennis <coastalcarol226@gmail.com>
Date: March 27, 2023 at 9:49:43 AM EDT
To: Lee April <leehoya63@gmail.com>
Subject: Fwd: Councilmanic Grant request

Hi Lee,
Would you be able to respond to this. Thanks. C

Carol A. Dennis
Executive Director
Coastal Concerts
P.O. Box 685
Lewes, DE 19958
888.212.6458
410.746.5699 cell
coastalcarol226@gmail.com
www.coastalconcerts.org

----- Forwarded message -----

From: Casey Hall <casey.hall@sussexcountyde.gov>
Date: Mon, Mar 27, 2023 at 9:24 AM
Subject: Councilmanic Grant request
To: coastalcarol226@gmail.com <coastalcarol226@gmail.com>

Good morning.

We are in receipt of your councilmanic grant request for the 2023-2024 Season Scholarships. Can you give us the districts or specific schools that this grant will aid. This will help us determine the appropriate council member to send the request to for consideration.

Thank you,

Casey Hall

Casey Hall, Clerk III

Administration | Sussex County Government

P.O. Box 589 | 2 The Circle | Georgetown, DE 19947

Tel: 302.855.7743 x7937 Fax: 302.855.7749

Casey Hall

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Lee April
Chair
Coastal Concerts Student
Scholarship Program

Sent from my iPhone

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To: Lee April <leehoya63@gmail.com>
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Carol A. Dennis
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P.O. Box 685
Lewes, DE 19958
888.212.6458
410.746.5699 cell
coastalcarol226@gmail.com
www.coastalconcerts.org

----- Forwarded message -----

From: **Casey Hall** <casey.hall@sussexcountyde.gov>
Date: Mon, Mar 27, 2023 at 9:24 AM

Subject: Councilmanic Grant request

To: coastalcarol226@gmail.com <coastalcarol226@gmail.com>

Good morning.

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Thank you,

Casey Hall

Casey Hall, Clerk III

Administration | Sussex County Government

P.O. Box 589 | 2 The Circle | Georgetown, DE 19947

Tel: 302.855.7743 x7937 Fax: 302.855.7749

Green
YES 4/21

Council Grant Form

Legal Name of Agency/Organization	Friends of Prime Zhook ^{Hook} NWR ^{HOOK} National Wildlife Refuge Inc. ✓
Project Name	Friends at Prime Hook NWR Educational Programs
Federal Tax ID	51-0380294 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	To support environmental, education, recreational activities and programs; to increase the public understanding of the history and environment of Prime Hook National Wildlife Refuge and the U.S. Fish and Wildlife Service; to preserve and enhance the integrity of the National Wildlife Refuge System for the public good and for the benefit of fish, wildlife, and plants; and instill reverence, respect, and sense of value for wild creatures and habitats.
Address	11978 Turkle Pond Road
Address 2	
City	Milton
State	DE
Zip Code	19968

Contact Person	Carol Knapp
Contact Title	Treasurer
Contact Phone Number	201-230-0230
Contact Email Address	njraven@me.com
Total Funding Request	7500.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other

Program Category Environmental Education
Other

Primary Beneficiary Category Other

Beneficiary Category Non-profit
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 6000

Scope Environmental Educational programs for general public and local school students including, where necessary, transportation to refuge for programs. Outreach programs to senior citizens covering all environmental aspects of the refuge and area. The Friends Store at Prime Hook NWR submits all sales profits to program account.

Religious Components

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0.00

Description Personnel

Amount 0.00

Description Insurance

Amount 2,400.00

Description Supplies

Amount 8,000.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 10,400.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -10,400.00

Name of Organization Friends of Prime Hook NWR

**Applicant/Authorized
Official** Carol Knapp

Date 04/01/2023

Affidavit Yes

Acknowledgement

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

HUDSON
Yes. 4/20

Council Grant Form

Legal Name of Agency/Organization	Town of Dagsboro
Project Name	Mark-A-Hydrant Town of Dagsboro
Federal Tax ID	51-0121156
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	The Town of Dagsboro, along with Dagsboro Fire Department, are seeking funds to mark all of the fire hydrants in our town limits as well as entire fire district which has been mapped out for us. These reflectors will be used to assist fire fighters in locating hydrants in the dark hours of the day/evening.
Address	PO Box 420
Address 2	33134 Main St
City	Dagsboro
State	DE
Zip Code	19939
Contact Person	Cynthia Brought

Contact Title	Town Administrator
Contact Phone Number	3027323777
Contact Email Address	tadagsboro@mediacombb.net
Total Funding Request	5994.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other

Program Category Fire Hydrant Markers
Other

Primary Beneficiary Category Other

Beneficiary Category All residents in fire district
Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program 0

Scope A one time marking of all fire hydrants within Dagsboro's fire district. We have 300 hydrants and markers go on both sides of the hydrants. This will benefit all residents within our fire district should a fire or disaster happen in the dark hours of day/evening.

Religious Components N/A

Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request) 0.00

Description Fire Hydrant Markers

Amount 5,994.00

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

Description

Amount

TOTAL EXPENDITURES 5,994.00

**TOTAL DEFICIT FOR
PROJECT OR
ORGANIZATION** -5,994.00

Name of Organization Town of Dagsboro

**Applicant/Authorized
Official** Cynthia J Brought

Date 04/17/2023

Affidavit Yes

Acknowledgement

If you feel this is not a valid submission please log into D3Forms to update this submissions status.
Please feel free to email clientservices@d3corp.com with any questions.

GREEN.
Yes. 5/2.

Casey Hall

From: notifications@d3forms.com@mg.d3forms.com on behalf of Sussex County DE <notifications@d3forms.com>
Sent: Wednesday, April 26, 2023 3:06 PM
To: Casey Hall
Subject: Sussex County DE - Council Grant Form: Form has been submitted

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Council Grant Form

Legal Name of Agency/Organization	Milton Garden Club ✓
Project Name	Irrigation
Federal Tax ID	510391028 ✓
Non-Profit	Yes
Does your organization or its parent organization have a religious affiliation? (If yes, fill out Section 3B.)	No
Organization's Mission	Beautify Milton
Address	PO Box 203
City	Milton
State	DE
Zip Code	19968
Contact Person	Jan Daily

Contact Title	Co President
Contact Phone Number	2155821809
Contact Email Address	dailyvivigirl@gmail.com
Total Funding Request	2000.00
Has your organization received other grant funds from Sussex County Government in the last year?	No
If YES, how much was received in the last 12 months?	N/A
Are you seeking other sources of funding other than Sussex County Council?	No
If YES, approximately what percentage of the project's funding does the Council grant represent?	N/A
Program Category (choose all that apply)	Other
Primary Beneficiary Category	Other

Approximately the total number of Sussex County Beneficiaries served, or expected to be served, annually by this program	80
Scope	New irrigation for downtown gardens
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	0.00
Description	Irrigation
Amount	2,000.00
TOTAL EXPENDITURES	2,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-2,000.00
Name of Organization	Milton Garden Club
Applicant/Authorized Official	Janet Daily
Date	04/26/2023
Affidavit Acknowledgement	Yes

Casey Hall

From: Janet Daily <dailyvivigirl@gmail.com>
Sent: Wednesday, April 26, 2023 2:36 PM
To: Casey Hall
Subject: Council Grant

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Hi. My name is Janet H Daily, I filled out the application. I hope this is what you need . Thanks..Jan

SECTION 3: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my knowledge and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used in advance or inhibit religious purposes.
- 8) In the event that the awarded funding is used in violation of the terms of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

Applicant/Authorized Official Signature: Janet H. Daily 4/24/23
Witness Signature: Brian J. Billard 4/26/23

Sent from my iPhone

Sent from my iPhone

On Apr 26, 2023, at 8:47 AM, Casey Hall <casey.hall@sussexcountyde.gov> wrote:

Good morning.

Sussex County has received your grant on behalf of the Milton Garden Club. Can you please confirm who completed the application submitted. Please have that person sign the attached form and return via electronically.

Please let me know if you have any questions.

Thank you,

Casey Hall

Casey Hall, Clerk III
Administration | Sussex County Government
P.O. Box 589 | 2 The Circle | Georgetown, DE 19947

Tel: 302.855.7743 x7937 Fax: 302.855.7749

<Grant Application signature page..pdf>

To Be Introduced: 5/9/23

Council District 4: Mr. Hudson
Tax I.D. No.: 134-15.00-19.02 (p/o)
911 Address: 34309 Burton Farm Road, Frankford

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.95 ACRES, MORE OR LESS

WHEREAS, on the 6th day of April 2023, a Conditional Use Application, denominated Conditional Use No. 2437 was filed on behalf of James R. Powell; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2437 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2437 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Burton Farm Road (S.C.R. 373) and the west side of Blackwater Road (S.C.R. 374) at the intersection of Burton Farm Road (S.C.R. 373) and Blackwater Road (S.C.R. 374) and being more particularly described in the attached legal description prepared by Delaware Surveying Services., said parcel containing 7.95 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

To Be Introduced: 5/9/23

Council District 5: Mr. Rieley
Tax I.D. No. 135-15.00-49.00
911 Address 22163 Lewes Georgetown Hwy, Georgetown

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.459 ACRE, MORE OR LESS

WHEREAS, on the 11th day of November 2022, a conditional use application, denominated Conditional Use No. 2412 was filed on behalf of Marco Morales; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2412 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2412 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying on the northeast corner of the intersection of Wilkins Lane and Lewes Georgetown Highway (Rt. 9) and being more particularly described in the attached legal description prepared by Wolfe & Associates LLC, said parcel containing 0.459 acre, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent
The Honorable Cynthia C. Green
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Mark G. Schaeffer

From: Jamie Whitehouse, AICP, Director of Planning & Zoning

CC: Everett Moore, County Attorney

Date: May 4, 2023

RE: County Council Report for C/U 2420 filed on behalf of Vance Daniels

The Planning and Zoning Department received an application (C/U 2420 filed on behalf of Vance Daniels) for a Conditional Use for parcel 230-15.00-3.00 for auto storage. The property is located at 9242 Daniels Road, Lincoln. The parcel size is 0.91 acres +/-.

The Planning & Zoning Commission held a Public Hearing on the application on March 9, 2023. At the meeting of April 20, 2023, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated and subject to the 8 recommended conditions as outlined within the motion (copied below).

Below are the minutes from the Planning & Zoning Commission meetings of March 9, 2023 and April 20, 2023.

Minutes of the March 9, 2023, Planning & Zoning Commission Meeting

C/U 2420 Vance Daniels

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL AND A C-1 GENERAL COMMERCIAL DISTRICT FOR AUTO-STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS. The property is lying on the west side of Daniels Road (S.C.R. 215A), approximately 480 ft. south of Coastal Highway (Rt. 1). 911 Address: 9242 Daniels Road, Lincoln. Tax Map Parcel: 230-15.00-3.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Staff Analysis, the Applicant's Conceptual Site Plan, the DeIDOT Service Level Evaluation Response, and a letter from



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE

the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that one letter of no objection and two letters of opposition had been received for the Application.

Mr. Whitehouse advised the Commission that the Application was submitted as a result of an issued violation; that the Applicant had been very cooperative with staff; that upon inspection of the site, staff found that vehicle storage was located outside of the existing C-1 (General Commercial) zoning of the property; that the front portion of the property is zoned C-1 (General Commercial); that the rear portion of the site is located GR (General Residential); that storage of vehicles is not permitted within GR Zoning; that after discussions with the Applicant, the staff decided the best path forward would be to request a Conditional Use, which would allow the vehicle storage to remain within the GR portion of the site and the application was expedited as the Applicant's use is already up and running.

The Commission found that Mr. Vance Daniels spoke on behalf of his Application. Mr. Daniels stated that he is the owner of Griff Daniels Autobody and Paint Shop; that he has been in the business for over 30 years; that he was before the Commission because someone filed a complaint against him; that the violation was for the storage of vehicles on property not zoned for commercial; that when he purchased the property he was under the impression the property was all commercial; that he was surprised the property is split zoned between C-1 (General Commercial) and GR (General Residential) and he was very confused at how everything came about.

Chairman Wheatley stated he understood where Mr. Daniels would have assumed the property was entirely zoned for commercial use and advised the Commission that the business use located on the C-1 portion of the property is permitted without any action by the Commission other than site plan review.

Ms. Stevenson questioned how many years Mr. Daniels had performed business at the site; that she questioned what Mr. Daniels's business is, what work he performs on the site, the number of vehicles currently being stored on the site, and what Mr. Daniels believed to be a reasonable amount of time for the vehicles to remain on the property.

Mr. Robertson stated according to the aerial photos, the vehicles were not stored at the site a year ago and he questioned what changed in the business that now requires the storage of vehicles.

Ms. Wingate questioned if the intention was to fix the cars and remove them from the site within a certain time frame and if vehicle work is performed outside or inside a building.

Chairman Wheatley stated the Commission does not want to see the site become an auto salvage operation; that the Commission does have the ability to place conditions and a potential condition may be the length of time permitted for vehicles to be stored on the property. Chairman Wheatley questioned if all the vehicles were being stored with the intention to be worked on, or are the vehicles were only being stored on the property.

Mr. Hopkins questioned the number of vehicles stored on the site when Mr. Daniels was only performing the body and paint work before the other individual began storing vehicles on the site; that he questioned if the property had always been one property or if the property was combined from two properties, if Mr. Daniels changed the zoning of the property and he questioned if Mr. Daniels

knew if the other adjacent properties were in support or opposition of the proposed use.

Mx. Lindenberg stated there was a Change of Zone approved for the property in 1985, which changed to existing C-1 portion of the property, from GR (General Residential) to C-1 (General Commercial), and in 1986, the rear, GR (General Residential) portion of the property was combined to the existing property.

Mr. Daniels stated he had performed business, on the commercial portion of the property, since 1985; that his body shop is located on the C-1 portion of the property; that his business is an autobody and paint shop; that a gentleman stores cars at his site; that he also provided work to the stored cars when he is able; that he is a small business man trying to make a living; that he desired to comply with Code; that he requested to be permitted to keep the vehicles stored on the GR portion of the site; that he had been working with an individual who brings the vehicles to the site; that this had transpired over the past six to seven months; that a timeframe is hard to provide as he currently has a lot of business; that the goal is to fix the cars and remove them; that he has no intention to create a junk yard; that he cannot speak to how long the vehicles will be required to be at the site; that the individual he works with sells vehicles; that the individual brings the vehicles to the site to be stored; that some vehicles get sold; that other vehicles are worked on by Mr. Daniels; that he does provide work to many of the vehicles; that any guidelines the Commission gives Mr. Daniels, he will comply with; that his work to the vehicles is performed within the body shop; that he does not change vehicle fluids; that he keeps paint stored in a container; that the used paint containers are placed in a specific container and disposed of properly; that currently the property is storing 25 to 30 vehicles; that he could not provide a reasonable amount of time for the vehicles to be stored on the property; that he was only trying to help individuals; that individuals will bring and leave a vehicle, despite the fact he is unable to work on the vehicle at that time; that he worked for i.g. Burton for 21 years; that individuals know this, and choose to leave their vehicles until he can provide the work for them; that before the individual began storing vehicles, he would have approximately ten vehicles around the shop; that he always believed the combined properties were zoned for commercial, as he would only receive one property tax bill; that only five people live along Daniels Rd.; that not everyone along the road is related to him; that individuals had recently moved to Daniels Rd. and he never had experienced any issues until the individuals moved to the area.

Chairman Wheatley stated with the storage of vehicles is creating a separate business from the proposed auto body and paint business; that the Commission's expectation would be that the vehicles are only being stored for the purpose of having an auto body or paint work done to them; that the vehicles cannot be stored on the property for a vehicle sales operation elsewhere; that he is afraid individuals may be leaving their vehicles on Mr. Daniels' property because they do not want the vehicle stored on their property; that this circumstance has created a problem for the adjacent neighbors, and he fully understands how Mr. Daniels would have been under the impression both properties were zoned commercial.

Mr. Whitehouse questioned how many of the vehicles being stored are untagged, as the number could be of relevance to the Commission when constructing conditions.

Mr. Daniels stated he was uncertain how many untagged vehicles were currently being stored on the property.

The Commission found that one person was present in support of the Application.

Mr. Joe Larrimore spoke in support of the Application. Mr. Larrimore stated that he did not initially attend the meeting to speak on behalf of the Application; that he has known Mr. Daniels for over 50 years; that Mr. Daniels is hardworking and honest; that last week, he and his wife were traveling Daniels Rd.; that his wife was complimenting how nice and orderly the vehicles were stored on the property; that typically, vehicles are stored with no organization and he is in favor of the Application.

The Commission found that there was no one present by teleconference who wished to speak in support of or opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2420 Vance Daniels. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0.

Minutes of the April 20, 2023, Planning & Zoning Commission Meeting

The Commission discussed the Application which had been deferred since March 9, 2023.

Ms. Stevenson moved that the Commission recommend approval of C/U 2420 Vance Daniels for automobile storage with conditions based upon the record made during the public hearing and for the following reasons:

1. This property has two zoning classifications. The front of the property is zoned C-1 General Commercial, and the Applicant has operated an auto body shop on this portion of the property for years. The rear of the property is zoned GR- General Residential. The Applicant assumed the entire parcel was uniformly zoned as C-1.
2. The Applicant has been storing automobiles on the rear GR-zoned portion of the site to some degree for years as part of his auto-body business. Recently, he has been storing more cars in the area for other people with the belief that they will be repaired and sold or moved off the property. There has been a significant increase in cars stored on the site recently. The Applicant stated that not all these cars are owned by him or associated with his business.
3. This Conditional Use is appropriate with conditions to allow the reasonable use of the entire property for a limited number of cars that are associated with the Applicant's auto body business. It is not appropriate for this site to become a location for other people to park or store cars, or to become a junkyard.
4. Based upon the ongoing use of the property and the limitations proposed by this recommendation, it will not have an adverse impact on neighboring properties or roadways.
5. This recommendation is subject to the following conditions:
 - A. There shall be no more than twenty (20) vehicles on the GR zoned portion of the site at any point in time.
 - B. No junked or unregistered vehicles shall be stored on the site.
 - C. The Final Site Plan shall show all areas set aside for the parking of vehicles on the site, and these areas shall be clearly marked on the site itself.
 - D. No vehicle shall remain on the GR-zoned portion of the site for more than ten (10) months.

- E. The only vehicles stored on the site shall be those that are actively being worked on by the Applicant as part of his business, or those that are schedule to be worked on as part of the Applicant's business.
- F. No vehicles that are owned by the parties other than the Applicant shall be left on the site for storage.
- G. No motor vehicle sales shall occur on the site.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2420 Vance Daniels for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

Introduced: 02/21/23

Council District 2: Mrs. Green
Tax I.D. No.: 230-15.00-3.00
911 Address: 9242 Daniels Road, Lincoln

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR AUTO STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS

WHEREAS, on the 9th day of January 2023, a conditional use application, denominated Conditional Use No. 2420 was filed on behalf of Vance Daniels; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2420 be _____; and

WHEREAS, on the ____ day of _____ 2023, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsections 115-37 and 115-79, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2420 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece, or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, Delaware, and lying on west side of Daniels Road (S.C.R. 215A), approximately 480 ft. south of Coastal Highway (Rt. 1), and being more particularly described in the attached legal description prepared by Kenneth M. Hillman, said parcel containing 0.91 acre, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.